Supreme Court of the United States

OCTOBER TERM, 1970

No. 5944

CLAUDE ALEXANDER,

Petitioner,

—v.—

STATE OF LOUISIANA,

Respondent.

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF LOUISIANA

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15TH JUDICIAL DISTRICT COURT
CRIMINAL DOCKET NUMBER 31132
PARISH OF LAFAYETTE, LOUISIANA

STATE OF LOUISIANA

—V—

CLAUDE ALEXANDER

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List of Members of Grand Jury

GRAND JURY

Upon instruction from the Court, the Sheriff here called the names of the twenty (20) citizens selected by the Jury Commission of the Parish of Lafayette, and summoned by the Sheriff to serve as Grand Jurors, if drawn as such, for the September, 1967 Criminal Term of the Fifteenth Judicial District Court of Louisiana, in and for the Parish of Lafayette, Louisiana, to-wit:

1. Nolan Joseph Winters
2. Felix Henry Foreman, Jr.
3. A. J. Szabo
4. John Raywood LeBlanc
5. Tom Brook Metcalfe
6. Paul Douglas Perkins
7. Bobby Joseph Richard
8. James Francis Lavergne
9. Freddie Lantier
10. Harry Elton Delahoussaye
11. Adam William Duhon
12. Floyd Meaux
13. Robert Arthur Anderson
14. Warren Trahan
15. Walter Frank Comeaux
16. Arthur James Maloney, Sr.
17. Glenn E. F. Oser
18. Ewell James Sonnier
19. Charles Carol Comeaux
20. Ellzey J. Terro

All answered to their names except:

1. Nolan Joseph Winters	Excused by the Court
2. Tom Brook Metcalfe	Excused by the Court
3. Harry Elton Delahoussaye	Excused by the Court

Whereupon, the remaining prospective Jurors were then sworn on their Voir Dire and then examined by the Court on their qualifications to serve as Grand Jurors, if drawn. The Court found these remaining prospective Jurors qualified.

The Court appointed FLOYD MEAUX as Foreman of the Grand Jury.

Complying with instructions from the Court, the Deputy Clerk of Court produced the Jury Box, properly locked, sealed and endorsed, which said endorsement was read aloud by the Deputy Clerk of Court, which endorsement was signed by the members of the Jury Commission of the Parish of Lafayette. Further, following in-

structions from the Court, the Deputy Clerk of Court opened the box and removed the envelope therefrom, containing the 20 cards having the names and addresses and wards of the twenty prospective Jurors. The inscription on the envelope was read aloud also. The Court instructed the Deputy Clerk of Court to open the envelope and place the cards contained therein in another box, said box was handed to the Sheriff, who then shook the box vigorously and drew therefrom 12 cards with the names of 12 separate prospective Jurors, those drawn were as follows:

1. Felix Henry Foreman, Jr.
2. A. J. Szabo
3. Paul Douglas Perkins
4. Bobby Joseph Richard
5. James Francis Lavergne
6. Freddie Lantier
7. Adam William Duhon
8. John Raywood LeBlanc
9. Floyd Meaux
10. Robert Arthur Anderson
11. Warren Trahan
12. Walter Frank Comeaux

MINUTES OF GRAND JURY

THE TRUE BILLS RETURNED BY THE GRAND JURY WERE AS FOLLOWS:

* * * *

"31133 CLAUDE ALEXANDER & LEE PERRY PRATT AGGRAVATED RAPE"

* * * *

Whereupon, Court then adjourned until the 18th Instant.

* * * *

INDICTMENT—Filed Sept. 15, 1967

STATE OF LOUISIANA,
PARISH OF LAFAYETTE

IN THE NAME AND BY THE AUTHORITY OF THE STATE OF LOUISIANA:

The Grand Jurors of the State of Louisiana, duly empaneled, sworn and charged to enquire within and for the Parish of Lafayette, State aforesaid, upon their oath do present THAT Claude Alexander and Lee Perry Pratt at the Parish of Lafayette, on or about the 4th day of September, in the year of our Lord, One Thousand nine hundred and sixty-seven (1967) within the Fifteenth (15th) Judicial District of Louisiana, committed aggravated rape upon Linda Louise Dossey contrary to the form of the Statute of the State of Louisiana, in such cases made and provided and against the peace and dignity of the same.

/s/ Bertrand LeBlanc
District Attorney,
Fifteenth Judicial District
of Louisiana

MOTION TO QUASH INDICTMENT—Filed Nov. 8, 1967
FILED ON BEHALF OF CLAUDE ALEXANDER

NOW INTO THIS HONORABLE COURT comes Claude Alexander through his undersigned Counsel, who, having heard the indictment read and protesting that he is not guilty of the offense set out therein, moves to quash the said indictment, and each count thereof for the following reasons to-wit:

(1) That citizens who are females were systematically excluded from the Grand Jury list and venire and from the Grand Jury as empaneled.

(2) That citizens of the Negro race were included in the Grand Jury list, and Grand Jury venire, in such small numbers as to constitute only a token, having no relationship to the number of citizens of the Negro race as compared to the number of citizens of the Caucasian race in the general population in the Parish of Lafayette and in the Fifteenth Judicial District of the State of Louisiana.

(3) That the indictment found by the Grand Jury is defective for failing to inform the accused, Claude Alexander, of the facts and circumstances necessary to constitute the alleged crime of aggravated rape.

(4) That the indictment against Claude Alexander is invalid and illegal and should be quashed because said indictment was returned by a Grand Jury empaneled from a Grand Jury venire made up contrary to the provisions of Amendment V., Amendment VI., Amendment XIV. and Amendment XV., of the Constitution of the United States of America.

WHEREFORE the said Claude Alexander prays that his motion to quash be maintained and that the said indictment as to him, and as far as he is concerned, be declared illegal, null and void, and that he be discharged

therefrom and for all general and equitable relief and all necessary orders in the premises, etc.

Lafayette, Louisiana this 8th day of November, 1967.

PICCIONE, PICCIONE & WOOTEN
P. O. Box 3029, Lafayette, La.

By: /s/ Joseph J. Piccione
Attorneys for Claude Alexander

* * * *

STATE EXHIBIT: JURY CARD

[Filed 1-10-67, /s/ Joyce Kebodeax, Dy. Clk. of Crt.]

Name Lyons, Percy M. Race W.

Address 221 W. Beverly Dr.,
Lafayette, La.
234-5411—234-1495

Birth 4-24-1918 Marital Status _____

Occupation Geologist

Registration: Lafayette Ward 3 Pct. 5

Will Claim Exemption Yes _____ No _____

GV 3-2-67
37357

DRAWN FOR PETITE JURY SERVICE ON 4-11-67

Case settled, did not serve

State Exhibit "B"

STATE EXHIBIT

[Filed 11-10-67, /s/ Joyce Kebodeax, Dy. Clk. of Crt.]

Questionnaire No. _____

QUESTIONNAIRE ON JURY QUALIFICATIONS

Please fill out this questionnaire and return in the enclosed stamped and addressed envelope

OLIVER J. LEBLANC,
Clerk of Court and
Ex-officio member of Jury Commission
Court House
Lafayette, Louisiana

1. Print name in full _____
First Middle Last
2. Residence address _____
Street or Rural Route
_____ Louisiana.
City or town
3. Occupation _____
4. Residence telephone _____ Business telephone _____
5. Business address _____
6. Place of birth _____
7. Date of birth (month) _____ (day) ____ (year) ____
8. Race _____ Sex _____
9. How long have you resided in Louisiana? _____
How long have you resided in Lafayette Parish? ____
10. Are you a registered voter _____
Parish Lafayette Ward _____ Precinct _____

11. Are you able to read and write the English language? _____

12. State highest grade completed in school (or extent of education) _____

13. Are you under interdiction, that is to say been declared by a court to be mentally incompetent? _____

14. Have you even been convicted or pleaded guilty to any criminal offense? _____
If so, state crime or crimes, in what Court and when. _____

15. Do you know of any legal reason why you would be exempted from jury duty? _____
If exempt, would you waive such exemption? _____

16. Do you have any physical impairment such a sight, hearing, etc., which would interfere with your serving as a juror? _____ If so, describe fully _____

17. What season of the year would be most convenient for you to serve if chosen? _____

18. Have you ever served on a jury? _____ If so, in what court? _____

When _____

_____
Signature in full

_____
Date

FILL OUT THIS QUESTIONNAIRE AND RETURN TO JURY COMMISSION IMMEDIATELY

JURY COMMISSIONERS FOR THE
PARISH OF LAFAYETTE
FIFTEENTH JUDICIAL DISTRICT
STATE OF LOUISIANA

GREETINGS:

YOU ARE HEREBY REQUESTED to fill in the information requested on the reverse side hereof and mail same to Oliver J. LeBlanc, Clerk of Court and ex-officio member of the Jury commission, Court House, Lafayette, Louisiana, without delay.

ALL QUESTIONS MUST BE ANSWERED

This notice is to be returned immediately

By authority of the
Jury Commissioners

/s/ Oliver J. LeBlanc
OLIVER J. LEBLANC
Clerk of Court and Ex-officio
member of the Jury
Commissioner

ALL INFORMATION MUST BE FURNISHED AND
WILL BE KEPT CONFIDENTIAL

See reverse side

YOUR NAME IS UNDER CONSIDERATION
FOR FUTURE JURY SERVICE

STATE EXHIBIT: VOTER REGISTRATION

Pratt Exhibit D

[Filed 11-10-67, /s/ Joyce Kebodeax, Dy. Clk. of Crt.]

[Cable Seal]

Date _____
Ward No. _____
Prect. No. _____

APPLICATION FOR REGISTRATION

OFFICE OF REGISTRAR OF VOTERS

PARISH OF LAFAYETTE,
STATE OF LOUISIANA

_____
(Residence Address)

I am a citizen of the United States and of the State of Louisiana and have not been disfranchised by any provisions of the constitution of this State.

My name is _____
(Mr.-Mrs.-Miss) (First) (Middle Name or Initial) (Last)

I live at _____
(House No.) (Apt. No.) (Street) (City or Town)

My sex is (circle one) Male Female

Have you been a resident of this state for more than one year, of this parish for over six months, and lived at your present address for more than three months, immediately preceding this date. (Check one) Yes ☐ No ☐
The place of my birth is _____
(City or Town)

_____
(State or Foreign Country) (Parish or County or Province)

I am over 21 years of age and the date of my birth is _____ I was last registered
(Month) (Day) (Year)
as a voter in (leave blank if none) _____
(Parish or County)

_____
(State)

I hereby declare my party affiliation to be (circle one)

Democrat - Republican - States Rights - None - Other ____

(Indicate your answers to the following questions in the spaces provided. All questions must be answered).

Have you been convicted of a felony without receiving a full pardon and restoration of franchise? Yes ☐ No ☐

Have you been convicted of 2 or more misdemeanors and sentenced to a term of ninety (90) days or more in jail for each such conviction, other than traffic and/or game law violations, within five years before the date of making this application for registration as an elector? Yes ☐ No ☐

Have you been convicted of any misdemeanor and sentenced to a term of six (6) months or more in jail, other than traffic and/or game law violations, within one year before the date of making this application for registration as an elector? Yes ☐ No ☐

Have you lived with another in "common law" marriage within five years before the date of making this application for registration as an elector? Yes ☐ No ☐

Have you given birth to an illegitimate child within five years before the date of making this application for registration as an elector? (The provisions hereof shall not apply to the birth of any illegitimate child conceived as a consequence of rape or forced carnal knowledge.) Yes ☐ No ☐

Have you acknowledged yourself to be the father of an illegitimate child within five years before the date of making this application for registraton as an elector? Yes ☐ No ☐

TURN CARD OVER

Under Louisiana Revised Statutes 18:222, no person shall register falsely or illegally as a voter, or make a false statement in an affidavit or other document that he presents for the purpose of procuring himself to be registered or to be retained as a registrant. No person shall knowingly present, for any purpose within the purview of this Chapter, an affidavit or other document containing a false statement.

Whoever violates this Section shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned for not less than six months nor more than one year, or both. The penalties shall be doubled for the second or any succeeding offense of the same character. I have read the statements above. Yes ☐ No ☐

"Applicant shall demonstrate his ability to read and write from dictation by the Registrar of Voters from the Preamble to the Constitution of the United States of America."

PREAMBLE

We, the people of the United States, in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America. (Article VIII, 1 (c) (7) La. Constitution)

Question Form Selected: (circle one)

1 2 3 4 5 6 7 8 9 10

CITIZENSHIP TEST FOR REGISTRATION

Circle letter indicating your answers to the six (6) numbered questions you have chosen.

1 — a b c	3 — a b c	5 — a b c
2 — a b c	4 — a b c	6 — a b c

Sworn to and subscribed before me this _____ day of _____, 196__

_____
(Deputy) Registrar

I do solemnly swear that I will faithfully and fully abide by the laws of this State and that I am well disposed to the good order and happiness thereof.

_____
Applicant's Signature

The Following Information About The Applicant To Be Completed By The Registrar:

My race is _____ The color of my eyes is _____

My mother's maiden name is _____

My occupation is _____ My employer is _____

Change of address:

Date _____ Address _____ Wd. __ Pct. __

Date _____ Address _____ Wd. __ Pct. __

Date _____ Address _____ Wd. __ Pct. __

Remarks: _____

Change of name:

Date _____ I am now Mr.-Mrs.-Miss _____

(Upon Request, the Registrar Shall Furnish Each Applicant a Copy of His Application Form)

STATE EXHIBIT: CLERK'S CERTIFICATE

STATE OF LOUISIANA
PARISH OF LAFAYETTE

This is to certify that on the card index of 7,374, a total of 1,015 negroes are included, and also 189 is with no race, and it is from this file that all General Venire are supplemented.

THUS DONE AND SIGNED this 14th day of November, 1967.

/s/ Oliver J. LeBlanc
OLIVER J. LEBLANC
Clerk of Court

STATE EXHIBIT: CLERK'S CERTIFICATE

STATE OF LOUISIANA
PARISH OF LAFAYETTE

THIS IS TO CERTIFY that the attached list is a true and correct copy of the names used on the General Venire on July 25, 1967 for the purpose of drawing 20 names as proposed members of the Grand Jury to be in attendance on September 11, 1967; also, for the purpose of drawing 30 names for Petit Jury service on November 6, 1967; and, also for drawing 30 names for Petit Jury to be in attendance on November 27, 1967; also for the drawing of 30 names to serve as Petit Jurors on December 18, 1967; also, 30 names for Petit Jury service on January 15, 1968; also, 30 names for Petit Jury service for February 19, 1968.

From these 400 names, 25 negroes were placed in the box and 4 cards drawn show no race.

THUS DONE AND SIGNED this 14th day of November, 1967 at Lafayette Parish, Lafayette, Louisiana.

/s/ Oliver J. LeBlanc
OLIVER J. LEBLANC
Clerk of Court

STATE EXHIBIT: LIST OF JURY VENIRE

	NAME	WARD	PREC.	RACE
1.	Neil Pierre Reaux, Jr.	5		White
2.	Sidney Bernard Flynn	3		White
3.	Thomas Lee Meaux	3		White
4.	Warren James Stutes	3		White
5.	Marvin Lesley Reinold	10		White
6.	Farrell Morgan	8		White
7.	Benny Jules Andrus	10		White
8.	Lee Roy Dugas	3		White
9.	Carrol Paul Trahan	1		White
10.	Joseph Howard Langlinais	8		"
11.	Wilmer Hanes	3		"
12.	Arthur James Maloney, Sr.	3		"
13.	Walter Frank Comeaux	3		"
14.	Wilven John Duhon	3		"
15.	Ralph Donald Dozier	6		"
16.	Nerry Antoine Trahan	3		"
17.	Emanuel Paul Bercegeay	7		"
18.	Irving Jules Guidry	3		"
19.	James Edward Grevé, Sr.	10		White
20.	Phillip Joseph Barr			"
21.	Paul Douglas Perkins	3		"
22.	Alvin Edgar Hebert	3		"
23.	Antoine Eugene Bergeaux	5		"
24.	Freddie J. Mouton, Jr.	3		"
25.	Charles Richard Fernandez, Jr.	5		White
26.	Ernest Ignatiaus Fuselier	3		Negro
27.	Joseph Clifton Carmouche	3		White
28.	Glenn Henry Briley	10		White
29.	Clarence Bourque	5		White
30.	Francis Savoie	6		White
31.	Ariel LeBlanc, Jr.	10		White
32.	Gene T. Faulk	3		White
33.	Luke Mitchelle Guilbeaux	3		White
34.	Charles Firmin Levert, Jr.	3		White
35.	Edmond Lloyd Guillot	8		"
36.	Clement Gautreaux, Jr.	7		"
37.	David Guidry, Sr.	3		"
38.	George Patrick Champagne	5		"
39.	Andrus John Duhon	3		"
40.	Wallace Joseph Landry	3		"
41.	Harold Gene Landry	3		"
42.	Elridge Michael Miller	3		"
43.	Raoul D. Breaux	3		"
44.	Warren Trahan	2		"
45.	Lloyd William Johnson	1		

	NAME	WARD	PREC.	RACE
46.	Hilbert P. Potier	1		White
47.	Herman John Broussard	10		"
48.	Gerald Bernard Landry	9		"
49.	Valrie Domingue, Jr.	3		"
50.	Thomas Shafter Derveloy	3		White
51.	Elvin Jay Guidry	7		White
52.	Norman Joseph Yentzen, Jr.	6		"
53.	Charles Richard Lynch			White
54.	Jack Grant West	6		White
55.	J. Archie Simon	3		"
56.	Blaise Arelie Armentor	5		"
57.	Robert Pierre Boudreaux	1		"
58.	Autrey J. Baudoin	3		"
59.	Maurice James Touchet	2		"
60.	George White	3		Negro
61.	Pierre V. Landry, Jr.	3		White
62.	Charles Lynn Landry	5		"
63.	Jerald Max Bearden	10		"
64.	Ray Allen Guidry	3		"
65.	Maxim Paul Soulier	5		"
66.	Charles Carol Comeaux	3		"
67.	Bernice Jean Constantin	2		"
68.	Herman Dalton Richard	10		White
69.	Howard Joseph Champagne	8		White
70.	Carey Allison Williams	8		White
71.	Gerald G. Fremin	9		White
72.	Reese Edgar Carter	10		White
73.	Louis Nolan Menard	3		White
74.	Howard Dean Crauey	10		White
75.	Allen Hebert			White
76.	Stanley Joseph Broussard	6		White
77.	James Francis Lavergne	1		White
78.	Walter Weber	1		White
79.	Lee Bruce McGee	1		White
80.	Robert Thibodeaux	3		White
81.	Earl Joseph Boudreaux	5		White
82.	John Paul Gonzales	10		White
83.	Lee Roy Dugas	3		White
84.	Nathan Ancelet	3		White
85.	Emery John Gallet	4		White
86.	Eugene Edward Lavergne	3		White
87.	Oston Kossuth Simon	2		White
88.	Floyd Menard	3		White
89.	Saul Perrodin	3		White
90.	Malcolm Joseph Bell	7		White
91.	Francis Alleman	1		White
92.	John Flavius Wilkinson	10		White
93.	Joseph C. Chargois	7		White

	NAME	WARD	PREC.	RACE
94.	Frank Louis Girouard, Jr.	5		White
95.	Francis Phillip David	9		White
96.	Ewell James Sonnier	1		White
97.	Freddie Lantier	3		White
98.	Alvin James Stelly	1		White
99.	Ward Joseph Sanchez, Jr.			White
100.	Harry Elton Delahoussaye	3		White
101.	Judson Alfred Voorhies	3		White
102.	Cyrus Joseph Brown	3		Negro
103.	Linsey Comeaux	8		White
104.	Louis John Bergeron, Jr.	3		White
105.	William Alfred Curley	3		White
106.	Aaron Joseph Nepveux	3		White
107.	James Harold Prejean, Sr.	3		White
108.	Sidney Bergeron	1		White
109.	Walter Raliegh Broussard	4		White
110.	John Austin Hebert	9		White
111.	John Allen Stelly			White
112.	Lee Joseph Bacon	5		White
113.	Allen Joseph Fabre	5		White
114.	Richard Jarvis Fortier	9		White
115.	Robley Menard	7		White
116.	Dudley Smith	3		White
117.	William Davis Frazell	3		White
118.	Leroy Anthony Monte	3		White
119.	Joseph Alvin Thibeaux	3		White
120.	Mack L. Dupuis	3		White
121.	Joseph C. Glorioso	3		White
122.	Sidney Ferdinand Siadous	3		White
123.	Edmund Thomas Lemmon	7		White
124.	Harry Floyd Broussard	4		White
125.	Walter St. Julien Comeaux, Jr.	5		White
126.	Harold John Romero	9		White
127.	Willis Joseph Morvant	5		White
128.	Ramond Edward Billeaud	5		White
129.	Maxie Duhon	4		White
130.	Lee Hazard Broussard	7		White
131.	Jules Dale Vincent	9		White
132.	Nunzia Joseph Varisco	7		White
133.	Don Louis Landry	7		White
134.	Robert Arthur Anderson	5		White
135.	Floyd Meaux	3		White
136.	Peter Edward Martin, Sr.	8		White
137.	Glenn Roberson Nations	10		White
138.	Eris J. LeBlanc	10		White
139.	Dalton Trahan	2		White
140.	Russell Roderic Mouton	3		Negro

	NAME	WARD	PREC.	RACE
141.	Joseph Wilbert Chevalier	3		Negro
142.	Leroy Picard	3		White
143.	Edward Louis Stelly	3		White
144.	Augustine Joseph Gauthier	7		White
145.	Taylor Joseph Landry	3		White
146.	Arthur Leo Boulet	3		White
147.	Adam William Duhon	3		White
148.	George Mouton	3		White
149.	Gilbert Roderick Fontenot	3		White
150.	John Tarleton Word	3		White
151.	Robert R. Stafford	3		White
152.	Albert Russell Picket	3		White
153.	Forrest Kent Dowty	3		White
154.	John Edmond McElligott, Sr.	3		White
155.	Eugene Harris Darnall	3		White
156.	Dan Irvin Quin			White
157.	Anthony Reynolds			Negro
158.	Willie B. Washington	5		Negro
159.	James Clifford Shay, Sr.	3		Negro
160.	Frank Raphael Durand	3		White
161.	Francis Ephrem Boustany	3		White
162.	Charles Augustus Miller	3		White
163.	Jimmy J. Benoit	8		White
164.	Adam Romero	1		White
165.	Joseph Withfield Benoit	1		Negro
166.	Theo Henry Weber	1		White
167.	Theodore B. Shaikewitz	10		White
168.	Emerson Jackson Foote	5		White
169.	Evan Henry Hughes	3		White
170.	Henry Edwin Featherston	10		White
171.	James Joseph Daigle	3		White
172.	Roland F. Pohler	10		White
173.	Paul Sonnier	1		White
174.	Curtis Broussard	8		White
175.	Carrol Lee Sonnier	8		White
176.	Carroll E. Guilbeau	6		White
177.	Wesley Eli Beadle, Jr.	7		White
178.	Gerald Joseph Guidry	10		White
179.	Claude Joseph Thomas	3		White
180.	Bernard Prejean			White
181.	Joseph Prejean	7		Negro
182.	Wilmer Curtis Goss, Jr.			White
183.	J. Warren Landry	1		White
184.	Ivan Anthony Bourdier			White
185.	George Dallas Turner			White
186.	Edward Clarence Ledet	3		Negro
187.	Teddy Arceneaux	1		White

	NAME	WARD	PREC.	RACE
188.	Ted Allman Richardson	3		White
189.	James Hilary Burleigh	6		White
190.	Aaron Stutes	8		White
191.	James Viel Savoie	6		White
192.	Currise Jude Broussard	1		White
193.	Joseph Leonce LeBlanc	3		White
194.	Glenn E. F. Oser	3		White
195.	Paul Guidry	8		White
196.	Clifton Anthony Duplin	1		White
197.	James Leewood Breaux	1		White
198.	James Arthur Nolan, Jr.	7		White
199.	Felton Paul Romero	3		White
200.	Otto Joseph Reaux	10		White
201.	Joseph Le Baudion	1		White
202.	V. Fred Kesner	10		White
203.	Harold Charles Champagne	10		White
204.	Clifton Pierre Broussard	4		White
205.	Curtiss Glenn Gilley	5		White
206.	Austin Trahan	1		White
207.	Santo Anthony Martaroma	3		White
208.	Aulley Joseph Breaux	3		White
209.	Bill Joseph Garcia	5		White
210.	Earl Brown Flatt	3		White
211.	Donald Louis Roger	6		White
212.	Paul Albert Thibodeaux	3		?
213.	Alcee Clemence Matthews	3		White
214.	Marion F. Pruitt	3		White
215.	Larry Louis Benoit	3		White
216.	Glenn Daniel Baker	5		White
217.	Stephen Lemelle	3		Negro
218.	Elias Guidry	8		White
219.	Tom Brook Metcalfe	10		White
220.	John Raywood LeBlanc	9		White
221.	Narcisse Joseph Dominque	2		Negro
222.	A. J. Azabo	10		
223.	Bobby Joseph Richard	6		White
224.	Vernon Patrick Landry	1		White
225.	Calvin Louis Lantier	8		White
226.	Ralph Douglas McGee, Jr.	10		White
227.	Dudley Joseph Richard	3		White
228.	Vinegnt Lawrence Lauin	10		
229.	Pierre Roger	1		White
230.	Robert Louis Brakefield, Jr.	10		White
231.	Francis William Miller	10		White
232.	Carroll Joseph Green	10		White
233.	Charles N. Lenox, Jr.	10		White

	NAME	WARD	PREC.	RACE
234.	Lee James Blanchard	3		White
235.	Leo A. Cavell	7		White
236.	Walter Lee Miller	3		White
237.	Tophie Joseph Mahfouz	3		White
238.	Gervin Gregory Tweedel	3		White
239.	Joseph L. Guidry	3		White
240.	Phillip Joseph Dubois	3		White
241.	Louis Locke Neveu	5		White
242.	John Bodin, Jr.	5		White
243.	Elridge Joseph Kidder	6		White
244.	Roy Jean Landry	5		White
245.	Maurice Joseph Sonnier	3		White
246.	Burton Andrus	6		White
247.	Edward Eugene Hernandez	3		White
248.	Archie Francis, Sr.	1		Negro
249.	John Bunyan Smith, Jr.	3		White
250.	Larry Lee Boudreaux	8		White
251.	Robert Frank Wendrock	3		White
252.	John Vinson Staten, Jr.	3		Negro
253.	Francis LeBlanc	8		White
254.	Dozier Lester, Jr.	10		White
255.	Ervin Joseph Breaux	6		White
256.	Nolan John Istre	2		White
257.	Alvin Albert King	10		White
258.	Charles Frank Gautreaux	3		White
259.	Wesley Guidry	2		White
260.	Vincent Guidry	3		White
261.	Robert Rosswell Burkee, Jr.	10		
262.	John Warren Fontenot	3		White
263.	Fernand J. Broussard	3		White
264.	Alexander Clause	6		White
265.	Percy Luke Breaux	1		White
266.	John Maxie Broussard, Sr.	7		White
267.	Ivy Richard, Jr.	3		White
268.	Oran Joseph Theriot	5		White
269.	Joseph Hebert, Jr.	5		White
270.	Linton Pierre Landry	3		White
271.	Arthur Gail Randol, Jr.	3		White
272.	John Allen Chiasson	3		White
273.	Solomon Arthur Womack, Jr.	3		White
274.	Joseph Albert Dugas	3		White
275.	Dallas Paul Vincent	3		White
276.	Rodney P. Alleman	3		White
277.	Lizzie Joseph Mouton	3		White
278.	Percy Willis Champagne	3		White
279.	Curley Joseph Romero	3		White
280.	Bryan Dale LeJeune	2		White

	NAME	WARD	PREC.	RACE
281.	Henry L. Rich	10		White
282.	Clarence Russell Craddock	10		White
283.	Alcee Clemence Matthew	3		White
284.	William Jeffrey Broussard	4		White
285.	Frank Paul Piccione	3		White
286.	Jackie Lee Mayers	3		White
287.	Chester Jean Lantier	2		White
288.	Paul Thibodeaux, Jr.	7		White
289.	John William Thomas	1		White
290.	Thomas Emile Vincent	3		White
291.	Jerry Dale Guidry	3		White
292.	Joseph Donald Sonnier	2		White
293.	Henry Romero, Jr.	3		White
294.	Lee Joseph Guidry	3		White
295.	Henry Clifton Denais	3		White
296.	Allen M. Beasley	10		White
297.	Maxson Jean Duhon	2		White
298.	Jimmie Floyd Vincent	3		White
299.	Arthur Falls Schafer	7		White
300.	Joseph Berchman Daigle	5		White
301.	Sam Sylvester Allgood, Jr.	10		White
302.	Robert V. Fleming	3		White
303.	Clovis Dalcour, Jr.	3		Negro
304.	John Elridge Lagneaux	2		White
305.	Paul Milton Domingue	2		White
306.	Arthur Joseph Felscher	7		White
307.	Lucas Stacy Denais	9		White
308.	Chester Duhon	1		White
309.	Richard Ardoin	3		White
310.	Ira Paul Peltier	8		White
311.	Jessie Lee Hidalgo	3		White
312.	Marc Emory Derouen	3		White
313.	Helaire Trahan, Jr.	1		White
314.	Edwin Hebert	8		White
315.	Jean B. Gallet	4		White
316.	Joseph Lee Chavalier	3		Negro
317.	Robley Joseph Hebert	3		White
318.	Alfred Louis Sonney	3		Negro
319.	Wilbert Joe	3		Negro
320.	Dennis Ray Hoffpauir	8		White
321.	Charles Guidry	8		White
322.	Presley Paul Decou	4		White
323.	Neely Eugene Lowrie	10		White
324.	Joseph Dalton Joe	3		Negro
325.	Anthony Pete Arceneaux	8		White
326.	Curtis J. Alleman	2		White
327.	Earsby John Rideaux	1		Negro

	NAME	WARD	PREC.	RACE
328.	Ellzey J. Terro	2		White
329.	Clarence Gumbs	2		Negro
330.	Dudley Earl Duhon	2		White
331.	Wallace Joseph Living	3		Negro
332.	Dudley Joseph Hebert	3		White
333.	Edmar Thibeaux	3		White
334.	Albert Louvierre	8		White
335.	Paul Dunand, Jr.	3		White
336.	Felix Henry Foreman, Jr.	3		White
337.	Nolan Joseph Winters	3		Negro
338.	Richard Gerald DePew	3		White
339.	Rayburn Dale Ocamb	10		White
340.	Joseph Hypolite Rivore	3		White
341.	Charles Albert May, Jr.	3		White
342.	Batson Boudreaux	3		White
343.	Joseph O. Trahan	5		White
344.	Paul Roy Girouard	5		White
345.	Charles Joseph Barras, Jr.	7		White
346.	Hardy J. Druand	3		White
347.	Nerry Comeaux	3		White
348.	Jessie James Guidry	3		White
349.	Andres Pouroiaux	3		White
350.	Claude David Martin	3		White
351.	Dougas Savoy	3		White
352.	Jimmy R. Gibson	10		White
353.	Allen John Anslem	3		White
354.	Floyd Anthony Meaux	3		White
355.	Werner Henke	3		White
356.	Nolan J. Badeaux	10		White
357.	Wilfred Jules Guidry	3		White
358.	Richard Crosby Sealy	3		White
359.	Loomis Joseph Dugas	1		White
360.	James Orland Underwood	3		White
361.	Donald George Hansen	10		White
362.	Kenneth Eldridge Toombs	3		White
363.	Edwin Lee Doyal	5		White
364.	Grant D. Carroll	3		White
365.	Joseph Ransom Malveaux	3		Negro
366.	Allen Anthony Bernard	3		White
367.	Dennis Racca	3		White
368.	Raymond Joseph Laurent	3		White
369.	LeRoy Francis O'Brien	3		White
370.	John Clanviele Savoy	3		White
371.	Billy Marion Ferriss	3		White
372.	Eugene Gerald Jumonville	10		White
373.	Dudley Joseph Hebert	3		White
374.	Lloyd J. Broussard	4		White

	NAME	WARD	PREC.	RACE
375.	Lawrence E. Foxworth	3		White
376.	Glen Cates			White
377.	Robert L. Miller	10		White
378.	Thomas Charles Menard	3		White
379.	Grifford Adam Cormier	1		White
380.	Eddie Benoit	2		White
381.	Elmer Roy Scales	3		White
382.	Joseph Clifton Young	3		Negro
383.	Anthony Simon	3		White
384.	Eric Joseph Granger	5		White
385.	Joseph Blanchard			
386.	Jerry Noel Begnaud	7		White
387.	Harrison Theall	2		White
388.	Charles O. DeJean, Jr.	3		White
389.	George Kermit Guindon	3		White
390.	August Bordovsky	8		White
391.	Donald M. Bailey	10		White
392.	Clarence White	6		Negro
393.	William Edward Leece	3		White
394.	George Joseph Martin	1		White
395.	Gilbert Ardoin	3		White
396.	James Calvin Breaux	3		White
397.	Marcel Brasseaux	6		White
398.	Arthur James Billeaud	1		White
399.	Kenneth Carlyle Jennings	10		White
400.	Joseph Merlin Gautreaux	1		White

[Filed this 28 day of Nov., 1967, /s/ Joyce Kebodeax
Dy. Clerk of Court.]

STATE OF LOUISIANA
PARISH OF LAFAYETTE

THIS IS TO CERTIFY that the attached list is a true and correct copy of the names used on the General Venire on July 25, 1967 for the purpose of drawing 20 names as proposed members of the Grand Jury to be in attendance on September 11, 1967; also, for the purpose of drawing 30 names for Petit Jury service on November 6, 1967; and, also for drawing 30 names for Petit Jury to be in attendance on November 27, 1967; also for the drawing of 30 names to serve as Petit Jurors on December 18, 1967; also, 30 names for Petit Jury service on January 15, 1968; also, 30 names for Petit Jury service for February 19, 1968.

From these 400 names, 25 negroes were placed in the box and 4 cards drawn show no race.

THUS DONE AND SIGNED this 14th day of November, 1967 at Lafayette Parish, Lafayette, Louisiana.

/s/ Oliver J. LeBlanc
OLIVER J. LEBLANC
Clerk of Court

A TRUE COPY ATTEST
Lafayette, La., 11-28-67

/s/ Joyce Kebodeax
Dy. Clerk of Court

[Filed this 28 day of Nov., 1967, /s/ Joyce Kebodeax
Dy. Clerk of Court.]

PER CURIAM—BILL OF EXCEPTION NO. 10

Defendant's Motion to Quash is without merit. On the question of inclusion and exclusion of Negroes, see State of Louisiana vs. Lucien Peters, 204 So. 2d. 284 and cases cited therein; and Brooks vs. Beto, 366 F. 2d 1, Cert. denied, 87 S. Ct. 1169, rehearing denied, 87 S. Ct. 1489 and cases cited therein; on the question of exclusion of women, see Article 402 La. Code of Criminal Procedure and Hoyt vs. Florida, 368 U. S. 57, 82 S. Ct. 159, 7 L. Ed. 2d. 118.

January 31st, 1969.

/s/ Jerome E. Domengeaux
District Judge

PRESENT:

HON. JEROME E. DOMENGEAUX
JUDGE PRESIDING

FOR THE STATE:

BERTRAND DEBLANC, ESQ.
District Attorney
Lafayette, Louisiana

FOR THE DEFENDANTS:

CLAUDE ALEXANDER, In Proper Person, represented by JOSEPH PICCIONE, ESQ.
Lafayette, Louisiana

LEE PERRY PRATT, In Proper Person, represented by WILLIAM LOGAN, ESQ.
Lafayette, Louisiana

OPEN COURT
LAFAYETTE, LOUISIANA

JANUARY 5, 1968

NOTE OF EVIDENCE
(Informal discussion off the record.)

RULING ON MOTIONS TO QUASH

BY THE COURT:

The Court in each case, after having heard the motions to quash, the Court now overrules and denies the motion to quash filed by the Defendant Claude Alexander and the motion to quash filed by the Defendant Lee Perry Pratt.

BY MR. PICCIONE:

Your Honor, in the case of STATE OF LOUISIANA -VS- CLAUDE ALEXANDER, Defendant Claude Alexander reserves a bill of exception to the ruling of the

Court on his motion to quash and particularly as to Counts 1, 2, 3 and 4 of the motion to quash and makes a [fol. 2] part of the bill of exception the motion to quash heretofore filed herein, the evidence taken at the trial of the motion to quash of the members of the grand jury and jury venire commission and the ruling of the Court and of course our exception to it.

BY THE COURT:

All right, let the objection and exception be noted.

BY MR. LOGAN:

Your Honor, in connection with Lee Perry Pratt we will make the same exception and reserve a bill of exception with specific note of the answer of the Clerk to the percentage of Negroes included on the venire as showing only 6.25 per cent.

BY THE COURT:

Okay, let the objection and exception be noted.

EVIDENCE CLOSED

* * * *

HON. JEROME E. DOMENGEAUX
JUDGE PRESIDING

FOR THE STATE:

BERTRAND DEBLANC, ESQ.
District Attorney
Lafayette, Louisiana

FOR THE DEFENDANTS:

CLAUDE ALEXANDER, In Proper Person, represented by JOSEPH PICCIONE, ESQ.
Lafayette, Louisiana
LEE PERRY PRATT, In Proper Person, represented by WILLIAM LOGAN, ESQ.
Lafayette, Louisiana

OPEN COURT
LAFAYETTE, LOUISIANA

NOVEMBER 10, 1967

MOTION TO QUASH THE INDICTMENT
(Informal discussion off the record.)

MR. PICCIONE: Mr. Landry, please.
Thereupon,

ERASTE R. LANDRY

was called as a witness, and having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. PICCIONE:

Q Please state your name and residence.
A Eraste R. Landry.
Q And your residence?
A Youngsville, Louisiana.

[fol. 2] Q Mr. Landry, what is your public office?

A Registrar of Voters, Lafayette Parish.

Q How long have you held that office?

A First time I went in 1937 through June, 1940, and I came back January, '48, until now.

Q Are you just about a lifelong resident of Lafayette Parish?

A That's right.

Q Mr. Landry, according to your knowledge of the registered voters of this Parish, can you tell us in close approximation the number of white people registered to vote and the number of colored people registered to vote as of, say, the past six months?

A You mean total of what I have on the book right now?

Q That's all right.

A We have forty thousand eight hundred and ninety-six total. Out of that we have six thousand five hundred and forty-one Negroes.

Q So presumably the rest would be white.

A Correct.

Q Now, would that be substantially about in the same proportion during the past six months?

A Well, we increased the last six months quite a bit.

Q You mean that the total number of voters has increased in the past six months.

A That's correct.

Q On the other hand, what about the comparison between the number of colored people as compared to the number of white people, is that about the same comparison?

A I would imagine so, yes.

Q It has held pretty steady for the past six months.

[fol. 3] A Yes, sir.

Q Mr. Landry, would it be to your knowledge and observation of the facts of life a correct statement that about half of the population of Lafayette Parish is female and about half is male?

MR. DEBLANC: We object to that. It calls for an opinion and he is not qualified to give an opinion as to how many males or females in the Parish.

MR. PICCIONE: That's almost something that Your Honor could take judicial cognizance of.

(Argument off the record.)

Q (By Mr. Piccione) If you know, Mr. Landry, can you say how many males are registered and how many females are registered?

A Well, that I don't know right now. I might have the record in the office.

Q You mean you probably have that count made in the office as such?

A Male and female?

Q I'm sure the Court would give you time to go look at it if you have it.

A Well, I have it. If the Court allows me, I'll go and get my record over there.

Q Except by checking the records you're unable to say about what the comparison is between male and female.

A No, not right now.

THE COURT: How long would it take you to determine that from your records?

THE WITNESS: Well, I could find that out from my secretary right away.

MR. PICCIONE: If he has it, Your Honor, I would like to put it in the record.

[fol. 4] THE COURT: I would think if he has it it would be in order.

MR. PICCIONE: And that's all the questions, Your Honor.

THE COURT: Would you mind checking on that and they'll call you back.

THE WITNESS: Okay.

THE COURT: Does the State have any questions?

THE WITNESS: No questions, Your Honor.

(Witness excused)

MR. PICCIONE: Mr. LeBlanc.

Thereupon,

OLIVER J. LeBLANC

was called as a witness, and having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. PICCIONE:

Q Please state your name and residence.
A Oliver J. LeBlanc, Lafayette, Louisiana.
Q What public office do you hold, Mr. LeBlanc?
A Clerk of Court.
Q Are you also a member of the Jury Commission?
A Yes, sir.
Q Did you act as a member of the Jury Commission in drawing up a grand jury venire which made its return in the first week or two of September of this year?
A Yes, sir.
Q That would be the same grand jury that returned an indictment against Claude Alexander, do you know that, sir?
A Yes, sir.
[fol. 5] Q Yes. Mr. LeBlanc, are you familiar with the procedures followed by the Jury Commission in drawing up the venire of three hundred names for the grand jury?
A Yes, sir.
Q And you participated in that procedure?
A Yes, sir.
Q In drawing up the list of three hundred names, were any citizens of the female sex included?
A No.
Q In fact, all women were excluded, isn't that right?
A We didn't have any names submitted to us of any with the intention of willing to serve.
Q And you didn't look for any names of women to serve on the jury, the grand jury.
A That's right.
Q And none were listed on the grand jury venire.
A That's right.
Q And this may be a projection, but in fact you will follow the same procedure, will you not, when you select the petit jury venire?
A That's right.
Q Has that petit jury venire already been selected?
A Yes, sir.

Q For such jury that might sit on a case beginning on November 27, 1967?

A If it's the same time of criminal court.

Q Yes, sir.

A Yes, sir.

Q And is it a fact that on that petit jury venire as well as on that grand jury venire there were no women.

[fol. 6] A That's right.

Q And there are no women listed.

A That's right.

Q Now, Mr. LeBlanc, did you see the members of the grand jury that was empaneled on September 11, 1967 when this criminal term opened?

A I'm not familiar with the grand jury personally and I don't remember if I saw them because we have a lot of grand juries or petit juries and I might have not gone to court that date.

Q Mr. LeBlanc, I think that this may help you and I believe you furnished me or the deputy clerk furnished me with a copy of the twelve names, of the twelve men, who served on the grand jury for September 11, 1967. Do you recognize that list?

A Yes, sir.

Q And they are all men, are they not?

A Yes, sir.

Q Do you know them all to be white men or members of the Caucasian race?

A I'm not familiar with all of them, Mr. Piccione. I'm not sure if they are or not. I couldn't answer that.

Q You really don't have no knowledge whether they are all white or not.

A That's right.

MR. PICCIONE: Your Honor, I would like to offer in evidence this list of twelve names of the grand jury as empaneled on September 11th, the actual twelve members who were empaneled as identified by Mr. LeBlanc.

MR. DeBLANC: I have no objection, subject to its correctness, that's all.

Q (By Mr. Piccione) Mr. LeBlanc, are you satisfied [fol. 7] that this is a true and correct list of the twelve men, list of the names of the twelve men who were empaneled on the grand jury this year?

A This could be verified from the minute book. I can't say for sure.

Q Would you prefer to do that before you say?

A Yes.

MR. PICCIONE: I'd like to ask the Court to give Mr. LeBlanc time to do that so he can certify it and then I will offer it in evidence after doing that.

THE COURT: All right.

(Informal discussion off the record.)

Q (By Mr. Piccione) Mr. LeBlanc, in making up the grand jury venire, was any effort made to include in the grand jury venire members of the Negro race as well as members of the Caucasian race?

A We don't make selections, Mr. Piccione. We draw them out of the box indiscriminately.

Q You draw them out of the what?

A Out of the general venire box.

Q And how do they get in the general venire box?

A By putting them in the selection on questionnaires that comes to us, other list that we send out from the registrar of voter's list, names, submitted to us by members of the Jury Commission.

Q In other words, names submitted by the members of the Jury Commission itself of which you are a member.

A Yes.

Q Did you submit some names?

A No.

[fol. 8] Q Did the other members submit some names?

A Some time ago they did bring us a list of names that—to be considered by the Jury Commission as a whole.

Q And were they put in the venire box?

A Some of them were and some of them were not.

Q Was any conscious effort made to include members of the Negro race?

A We do not make selection from race. We just go to the questionnaires or by recommendations, one way or the other.

Q Now you said that list was put in the venire box. What list?

A The slips or list that are put in the general venire box are made from questionnaires that I mailed out.

Q Questionnaires?

A Yes.

Q That are mailed out to whom?

A To different people in the Parish.

Q And these questionnaires ask them to recommend—

A No, no, to fill in questionnaires to get their qualifications and occupations to see if they are qualified to serve on the jury.

Q Now, who is this questionnaire sent to? How is that determined?

A To the different people in the Parish by the registrar of voter's list and the telephone book, city directory, different lists that are submitted by school board or any list that we can find that we think we got address for the mixed race one way or the other.

Q In this instance here of this grand jury venire, the last one that we're talking about, was the list of regis-[fol. 9] tered voters from Mr. Eraste Landry's office used?

A It was.

Q Did that include the list of colored voters as well as white voters?

A It did.

Q Were any selections made from the list of colored voters?

A No selections were made from colored voters or white voters. They were taken if we thought that they were qualified to serve on the jury.

Q Were questionnaires sent to every member of the list indiscriminately or were only certain ones selected and questionnaires sent to them?

A The questionnaire was sent the first time to one out of every eight from the registrar of voter's list.

Q Do you mean that you selected the one out of eight or did you go down the list and take every eighth one?

A Took every eighth one. If it was a doctor or if it was a lady or if it was a school bus driver, the typist was instructed to take the next one.

Q In other words, if you hit an eighth one that appeared for some reason to be exempted you took the next one.

A Yes.

EXAMINATION

BY MR. DeBLANC:

Q Mr. LeBlanc, I gather from what you've said that you have a broad base from which you start. Is that correct?

A That's right.

Q Now you start off by taking every eighth name of the registered voters from the list in the registrar of voter's office.

[fol. 10] A Yes, sir.

Q Wherein there are approximately forty thousand persons registered.

A Yes.

Q And if the eighth name is a person who is exempted by the law of Louisiana, such as bus drivers, women, doctors, lawyers, then you go to the next name. Is that correct?

A Yes.

Q Now, then, what do you do with that name? What do you do with the name?

A We send them a letter.

Q Don't you make a card on them, too?

A We did, but then we found out it was best to wait until the questionnaires came in to make a card. Then we make a card after the questionnaires come in with the information.

Q But each one of those eighth names—this eighth name that you pick out, isn't a card ultimately made on him?

A Yes, that's right.

Q It's a little four by five card?

A Yes.

Q And you have possession of that card?

A Yes.

Q And they are put in like a card index?

A Yes, sir.
Q In alphabetic order?
A Yes.
Q So you have thousands and thousands of names?
A Yes.
Q Which were taken from the registrar of voter's list.
A That's right.
[fol. 11] Q And you take them out of there, the eight names, regardless of whether they're white or colored. Is that correct?
A That's right.
Q Now, then, you also take names from other lists like the telephone book?
A That's right.
Q You have taken names from the Lafayette telephone book which includes Lafayette, Broussard, Carencro, Youngsville, Duson and other rural parts of the Parish.
A That's correct.
Q In other words, you have a telephone book which covers all telephones in the Parish of Lafayette.
A Yes.
Q And you take names out of that.
A Yes, sir.
Q Now, you also have a city directory which you use of the City of Lafayette?
A Yes.
Q And you take names out of that.
A Yes.
Q Indiscriminately?
A Yes.
Q Now, you have other lists besides that that you take names from?
A The Jury Commission brought in some names.
Q People that they know themselves?
A Yes. And we sent questionnaires out. Of course it wasn't that many. But it was more or less a duplication of the list we already had.
Q You have a copy of that questionnaire with you?
[fol. 12] A I can get one.
Q Can you get it so we can see it?

A Yes.

Q Can you send somebody to pick one up, and also a sample of the card?

A Yes.

THE COURT: Off the record.

(Informal discussion off the record.)

THE COURT: Show that Mr. Eraste Landry is now back on the stand.

Thereupon,

ERASTE R. LANDRY

was recalled as a witness, and having previously been sworn, was examined and testified further as follows:

EXAMINATION

BY MR. PICCIONE:

Q Mr. Landry, can you state how many females were registered to vote in Lafayette Parish?

A Yes, sir. Out of the forty thousand eight hundred and ninety-six total registered, we had seventeen thousand eight hundred and three white males and we have sixteen thousand four hundred and eighty-three white females; we have in colored male, three thousand five hundred and seventy-three; colored females, three thousand and thirty-seven.

Q And that's as of right now.

A Yes, sir.

Q Would that proportion approximately have been maintained fairly well in the past six months?

A Yes, sir.

Q Mr. Landry, as a man who has lived in Lafayette [fol. 13] Parish for a long time, would you look at these twelve names and state if you know those people and are they white or colored?

MR. DeBLANC: We object to that unless he has—it's calling for an opinion.

(Argument off the record.)

THE COURT: You may answer.

THE WITNESS: The first one, Felix Henry Foreman, Jr., white man; Paul Douglas Perkins, I don't know him; James Francis Lavergne—I know them names but I don't know them people; Adam William Duhon; Floyd Meaux, I know him; Warren Trahan, I'm not sure I know him; John Raywood LeBlanc, I know him; Bobby Joseph Richard; Robert Arthur Anderson; Walter Frank Comeaux, I know him; Adam William Duhon; A. J. Szabo, I know him.

Q (By Mr. Piccione) All those that you know are white people?

A Yes, sir.

Q And there's none on there that you recognize as being colored.

A Well, like I say, I don't know them—

Q You don't know them, yes, sir.

MR. PICCIONE: That's all, Mr. Landry.

MR. DeBLANC: No questions.

EXAMINATION

BY MR. LOGAN:

Q Mr. LeBlanc says that he uses a list from your office in selecting names for potential jurors. Did you furnish him a list or does he actually use your cards?

A Well, he uses my cards. He sent a girl out there to type those cards.

Q Off of your cards?

[fol. 14] A Yes, sir.

Q Now, do your cards show the occupation of the person?

A Yes, sir.

Q Does it show his education?

A I don't know.

Q Does it show his race?

A Well, yes, it does.

Q Do you have a blank one of those cards that you could give us that that information was taken from?

A What you mean?

Q You don't have a blank card in your office of the kind that you gave Mr. LeBlanc to get the information from?

A Yes.

Q Could you furnish us one, please.

A Yes. You mean the application card?

Q Yes.

A Yes.

Q The card you would furnish in blank, all those would be filled in when someone registers to vote?

A Well, when he took it out from the office they were all typed, yes, sir; all in a file.

Q I mean, all the blanks were filled in.

A Yes, sir.

Q All right. Would you furnish us a blank card, please.

A Yes.

(Witness excused)

Thereupon,

OLIVER J. LeBLANC

was recalled as a witness, and having previously been sworn, was examined and testified further as follows:

[fol. 15] EXAMINATION (CONT'D.)

BY MR. DeBLANC:

Q I'd like to show you these cards which I mark state Exhibit "A". I'll put this one as "B". I show you this card, State Exhibit "A" and ask you if this is one of the cards you make up?

A Yes. We make this from the questionnaire.

Q And that card—and the questionnaire is sent to the people you get from the list, right?

A Yes, sir.

Q This is one of the names that you got from some of these many lists that you made copies from, right?

A Right.

Q And you send them each a questionnaire?

A Yes, sir.

Q I show you State Exhibit "B" and ask you if this is the kind of questionnaire that you send out?

A Yes, that's the questionnaire.

MR. DeBLANC: Now subject to substituting a certified copy of these, the State will move to introduce into evidence State Exhibit "A" and State Exhibit "B".

MR. PICCIONE: No objection, Your Honor.

THE COURT: Let both State Exhibit "A" and State Exhibit "B" be admitted and leave is granted for the purpose of substituting a photostatic copy of State Exhibit "A".

Q (By Mr. DeBlanc) Then when they send that questionnaire back filled up, then you use that information to determine whether or not that they are qualified for jury service. Is that correct?

A That's correct.

[fol. 16] Q And it's from these questionnaires and the returns from these questionnaires that you then select the three hundred names of the general venire. Is that correct?

A That's correct.

Q And you make any distinction there between races when you pick them out as long as they qualify?

A No, it makes no difference if they're white or black. As long as we think they can serve they're placed in the box.

Q And then of course after they're placed in the box, arbitrarily placed in the box, then when you take out the names from that box to be placed in the list, you make out your list for your petit jury and your grand jury, then those are drawn by lot out of the big box. Is that correct?

A That's correct.

Q So it depends on luck or chance as to what comes out of the box.

A That's correct.

Q As far as race is concerned, you could have all whites or you could have all black.

A That's a possibility.

MR. DeBLANC: That's all.

EXAMINATION

BY MR. PICCIONE:

Q Mr. LeBlanc, perhaps I didn't understand. Did you say that you sent the questionnaire out first and then from the questionnaire answered you made out the card, or did you make out the card first and then sent out the questionnaire?

A The first time we made the cards out, the second time we waited until the questionnaires came in and then made the cards from the questionnaires. Because in order to get the information we need on the card it's necessary [fol. 17] to get the questionnaires sometimes.

Q In other words, you had a list of people that showed you who to mail the questionnaire to; you mail the questionnaire and you got an answer and then you made out your cards.

A That's correct in some cases.

Q And from the cards is where your venire list of three hundred names came. Is that right?

A These are the cards we keep in the file as a record of jurors; however, the general venire is a small slip of paper that's typed.

Q Now, Mr. LeBlanc, does anything in the telephone book tell you who is white or colored?

A No.

Q Does anything in the city directory tell you who is white or colored?

A No.

Q Does your questionnaire ask the question, in fact, No. 8, race?

A Yes, sir.

Q It does?

A Yes.

Q Does it also ask sex?

A It does.

Q Does your card from which you make your venire list ask the question race in the upper right-hand corner?

A It does.

Q In other words, then, on the three hundred names that went into the grand jury venire, you would have a

record of the name and the address of that person and the race of that person.

[fol. 18] A No, not on the card that went in the general venire box.

Q Why not?

A It's a slip of paper only with the name and the address in the general venire box.

Q Yes, but in making the decision to put that name with that address in that general venire box, you knew at the time you placed it in there from the card, the card informed you whether they were white or colored, did it not?

A We didn't look at that, Mr. Piccione. What we did, we need a hundred names, say, to fill the general venire box, we get a stack of questionnaires and we just remove the clips and put the paper in the box the moment they are qualified.

Q Mr. LeBlanc, you say you didn't look at that, but still your questionnaire calls for race, your card informs you on race, am I not correct?

A That's correct. We have this on there because this is merely for identification of this particular individual.

Q Now, Mr. LeBlanc, do you know of your own knowledge the actual three hundred that were put on the grand jury venire for this term of court how many of them were white and how many were colored?

A I can't tell you that.

Q But the cards that correspond to their names would tell you that, wouldn't they?

A There's a possibility.

Q And you could look at that list you have in your office, the list of the three hundred names on that grand jury venire and you have the cards on those same individuals which says whether they are white or colored. Is that correct, sir?

A We have a card in file of these slips of paper that [fol. 19] we have in the general venire box.

Q And you could prepare a list or a certificate of those names and their races as shown by your records knowledge that the grand—that your jury commission

had at its disposal when it selected the venire. Isn't that correct, sir?

A You talk on three hundred which is what it should be. Of course the new law says not less than three hundred. Since we have so many juries to select we increased the list on the general venire to four hundred.

Q So are you saying in this case four hundred were selected?

A Yes.

Q So my question is, you do have a list of that four hundred and you can check the cards to find out and to put down what their races were. It could be determined how many were whites and how many were colored.

A It could be determined in a matter of a week or ten days.

MR. PICCIONE: Well, Your Honor, we move for the disclosure of that information because it's relevant to our motion to quash. We request the Court to please instruct Mr. LeBlanc as Clerk and ex-officio member of the jury commission to prepare a suitable certificate or list certifying to the names on the grand jury venire, four hundred or whatever it is, the addresses are not necessarily pertinent, but the names are and the races as shown by the white card and on questionnaires that Mr. LeBlanc has testified he has on every one of those names. Now he may not know of his own personal knowledge whether they are white or how many are white or how many are colored, but his records show and his records were before him and the other commissioners when the venire was [fol. 20] selected.

(Argument off the record.)

THE COURT: Let me defer ruling on that at this time.

EXAMINATION

BY MR. DeBLANC:

Q Can you tell us how many white persons and how many Negroes were sent questionnaires?

A No, sir.

Q You can't do that?
A No, sir.
Q You don't have that information?
A We sent five or six thousand letters out, but I don't know how many white or how many colored.
THE COURT: I gather from that, Mr. LeBlanc, that you pick every eighth name as you explained a moment ago without regard as to the race of that person. Is that correct?
THE WITNESS: Yes, sir.
THE COURT: It's for that reason then that you cannot say how many white questionnaires were sent out and how many colored questionnaires were sent out because they were chosen indiscriminately every so many names. Is that correct?
THE WITNESS: That's right.
Q (By Mr. DeBlanc) And you did not keep a list of that.
A I did not keep a list of that.
Q Now, you sent out how many questionnaires would you estimate?
A The first time I sent out approximately eight thousand.
Q How about the second time?
A The second time approximately three thousand. But both times we had about fifty per cent return mail.
[fol. 21] Q Both times fifty per cent returns?
A Yes.
Q Well, now, would you say that you had more returns from Negroes or from whites?
A Well, I would assume by looking at the questionnaires that we had more returns from the white people.
Q Could you say approximately how many more in percentagewise?
A No.
Q Would you say that there was a great number more of whites than Negroes?
A Well, working with the list we had in the percentage of registered voters together with the telephone book and city directory, naturally there was a greater percentage of personal mail to the white people than to the

Negroes. And for that reason it follows that we had larger replies from the white than from the colored.

Q But you did send this out indiscriminately—

A Yes.

Q —insofar as picking out the names of the voter registrants and picking out the names in the telephone directory and in the city directory.

A That's right.

Q Now the city directory has the names of every person who lives in Lafayette, do they not?

A Yes.

Q That's indiscriminately white and colored.

A That's correct.

Q So you would say then that while you sent out these cards indiscriminately to white—questionnaires, that is [fol. 22] to say, when you sent out these questionnaires, about eleven thousand, that you received about fifty per cent back and mostly from whites.

A Mostly from whites is correct.

Q Can you give us the number of white and Negroes from whom you received cards?

A No. I don't keep track of that.

Q From whom you received questionnaires.

A I have all the questionnaires that I received, but I don't know how many whites or how many colored. I haven't counted them.

Q Well, that's what we want to find out. Can you tell us that?

A That would take some time too.

MR. DeBLANC: I think that's as important as the other question.

MR. PICCIONE: I'd like to ask a couple of more questions, Your Honor, in general.

EXAMINATION

BY MR. PICCIONE:

Q Mr. LeBlanc, how long have you lived in Lafayette Parish, sir?

A I moved here in 1926, I believe, or '27.

Q And how long have you been Clerk of Court?

A Since 1944.

Q Mr. LeBlanc, I'm sure you consider yourself very well acquainted with the population of Lafayette Parish, do you not?

A Yes.

Q Can you state to the Court approximately what is the ratio in the population general of the white people as compared to the colored people?

[fol. 23] MR. DeBLANC: We object to that. He hasn't got that knowledge, Your Honor. He's asking for an opinion.

THE COURT: Well, if he knows.

THE WITNESS: I don't know.

Q (By Mr. Piccione) You couldn't give us an approximation?

A No.

MR. PICCIONE: Your Honor, we would like to offer, file and introduce in evidence the 1960 United States Census which I think does make that distiction of Lafayette Parish and I think it was amended in 1966.

(Argument off the record.)

Q (By Mr. Piccione) Mr. LeBlanc, is it correct then that at the time of sending out this questionnaire you and the commissioners were charged with the responsibility of preparing the venire and you all did not know the race of the people to whom you would send the questionnaire?

A That's correct.

Q You didn't even concern yourself with that factor.

A No.

Q Now when you got the questionnaire answered by whoever answered, then you were aware of their race, were you not, if they answered the question No. 8 on the questionnaire?

A We didn't look too much for the race. All we were interested in—

Q But you could have looked.

A We could have, yes.

Q And in fact the people that work for you, the secretarial help, were instructed by commission in preparing

the cards, fill all the blanks in the cards, including the [fol. 24] one that said race. Isn't that right?

A Yes.

Q So you recorded the information of whether they were white or colored.

A That's right.

Q And it was only after this recordation was made of identifying the race of the parties that you then from that list prepared the venire list of four hundred?

A No. The cards were made and attached to the questionnaires together with the slip of paper. The questionnaires that we thought could not serve were more or less rejected, and those that we thought could serve were all in one stack. If we need any names in the box, it makes no difference if they're white or black. They are taken and removed and the slip is placed in the general venire box.

Q Mr. LeBlanc, I agree with what you just said, but you didn't really answer my question. Let me rephrase it in light of what you said. Granted that some of these questionnaires and cards that were made from the questionnaire were rejected. You made a rejection of them for one reason or another that you felt they were disqualified. Am I right?

A Yes.

Q Now the remainder constituted answers to questionnaires, and white cards revealing the race of the party. And from this remainder of questionnaires and white cards you prepared the list of four hundred for the venire.

A That's right.

Q In fact they didn't come from any place else; they came from that list of white cards.

A That's right.

[fol. 25] Q So that whether you concerned yourself or not, the fact of the race of the party was there apparent for you to see on that white card.

A It was, but we didn't look at that.

Q Well, you either knew it or you could have known it.

A We could have.

Q And yet you're unable to say how many white and how many colored you got in the four hundred on the venire.

A That's correct.

Q You'd have to make a study of that and give us a list of it.

A Yes.

MR. PICCIONE: And we do move for that list. Your Honor, if I understand right the State has already offered the white card and also the questionnaire, so I don't have to offer them again.

THE COURT: That's right, and the white card we agreed to substitute a photostatic copy of it.

MR. PICCIONE: I'd like to make the white card and the green card offered by the State a part of my evidence as well. I would have done so if the State would not have done so first.

MR. DeBLANC: We have no objection.

EXAMINATION

BY MR. DeBLANC:

Q Mr. LeBlanc, when you select the three hundred names of the general venire, the rest of these cards are still there for you to select from should you need any additional names. Is that right?

A That's correct.

Q You have several thousand names there of people [fol. 26] who are available for jury service.

A That's right.

Q And when you need to replenish the three hundred names, you need to make a new list or anything like that, then you go back to your cards and your answers to questionnaires. Is that right?

A That's right. We keep a file of all of those we think are capable of serving, qualifying. Selecting the petit juries and grand juries, the moment we have to replenish the box we just take all the questionnaires we have and put them on the table and they just take them indiscriminately and replenish your box without any selection.

Q Because you know that all these people in your opinion are qualified.

A That's correct.

EXAMINATION

BY MR. LOGAN:

Q Mr. LeBlanc—well, first, I'd like to make the card and the questionnaire part of the evidence for Pratt.

THE COURT: So ordered.

Q (By Mr. Logan) Mr. LeBlanc, who are the members of the jury commission?

A J. Alfred Mouton, Mike Donlon, Dr. Carol Mouton, Andrus Martinez and myself.

Q Now, are all of those members of the Caucasian race?

A Yes.

Q You have no members of the Negro race.

A That's right.

Q Now, who presents the names to the Judge for signing the order to make them members of the jury com-

[fol. 27] mission? Who recommended names to the Judge?

A (No response.)

Q Do you as Clerk of Court do that?

A No.

Q Do you know who does?

A The Judge usually makes his own selection more or less or the Judge might get recommendations from the Clerk.

Q Did you make any such recommendations?

A No. We lost one last time. We were five and this new law requires that we're only four; five with the Clerk.

Q Well, now, do you know whether or not any names of Negroes were submitted to the Judge for appointment in the jury commission?

A Some of the jury commissioners been there for years. I wouldn't know about that.

Q Have there ever been Negroes on the jury commission?

A No.

Q Now, who prepares this questionnaire on jury qualifications?

A The District Attorney and I went over this.

Q Did the Jury Commission have anything to do with—

A We went over this with the jury commission, too. I submitted it to them.

Q And you all adopted that form as satisfactory to all?

A Yes.

Q Now, what does race have to do with the qualifications of the jury?

A Race has nothing to do with the qualifications of the jury. The reason we have race here is for identification of this particular individual.

[fol. 28] Q Why is the race put on your jury card?

A This card?

Q Yes, sir.

A This is also for identification, because we don't work with the questionnaires after we draw the general venire. We draw from the general venire the slips of papers. The slips of papers only has the name and the address and the ward and the precinct.

Q You draw from the general venire, but how does the card get in—the names get in the general venire?

A The cards are made when we make these cards—

THE COURT: When you say these cards, you're referring to a card similar to State Exhibit "A", right?

THE WITNESS: Yes. We have a small slip of paper made from these cards. We put them in the general venire box and they are drawn. In preparing the list we type the name and address from these other slips. If we're in doubt about this individual, we don't know if he's white or black, we see her black or colored, then we know just what individual we have drawn. We also can have the occupation for that particular purpose. A lot of people in this section of the country has the same name.

Q (By Mr. Logan) But you do as a fact know whether they are white or colored.

A Not from the slip of paper that is drawn from the general venire box.

Q But from the questionnaires and the cards that's used to make up the slip of paper to put in the general venire, you know whether they're white or colored. Is that correct?

A Yes. We can determine that.

Q Now, you stated that you used the registrar's card to make up your list that you make out?

[fol. 29] A Yes.

Q And the registrar's card shows what their race is also, doesn't it?

A Right.

Q Now, you stated that when these questionnaires came back you determined who—before you put them on the list you decided if you thought they were qualified.

A That's right.

Q What did you use in determining whether you thought they were qualified?

A He might be a doctor, he might be a school teacher, a school bus driver or he might come under the qualification that will exempt him.

Q Are the only persons that you consider not qualified were those that were exempted by law?

A No. Some of them didn't know how to read and write.

Q Other than read and write, did you exclude anybody else because of education or anything?

A Some of them were extremely nervous, hard of hearing.

Q You mean where they showed that on the questionnaires?

A Yes.

Q Were there any other reasons why they were excluded?

A There might have been others. They might be crippled or they might have put on the remark column where he can't sit a long time. There are a lot of other reasons that we thought he might claim exemption.

Q Do you have a list of the people to whom your questionnaire was mailed?

A No.

Q Was the questionnaire mailed to any women at all?
[fol. 30] A We have received some that was filled in by some ladies. I think one.

Q Did you mail any to any women intentionally or did you intentionally exclude women when you mailed them?

A We didn't mail any to the women.

MR. LOGAN: I'd like to also make part of my evidence the list which the Clerk is to furnish of the four hundred on the general venire as to whether they were colored or white. I'd like to make that part of my evidence. And that's all the questions I have.

EXAMINATION

BY MR. DeBLANC:

Q Mr. LeBlanc, you would include the names of any women who volunteered service. Is that correct?

A Yes.

Q And as I understand, the reason you did not include women is because they are exempted from service unless they specifically volunteer and offer their services. Is that right?

A Yes.

Q And all of the questions which are contained in the questionnaire deals with their qualifications to serve.

A That's correct.

Q And they were specifically drawn up and worded to make that determination.

A That's correct.

Q So if the questions showed to you that they were not qualified, you would put this questionnaire aside. Is that correct?

A That's correct.

Q And those you felt were qualified because of the [fol. 31] answers they gave, then you would put them as qualified and put their cards in the list of cards in the index where you could reach for them whenever you need them. Is that correct?

A That's right.

EXAMINATION

BY MR. LOGAN:

Q Were any invitations or notices sent to women advising that they had a right to declare their desire to serve on the jury?

A I've discussed that with the Assistant District Attorney and I've sent her at different women's clubs to explain to the women the possibility of being on the jury. The reason so far that the women have not served is because facilities and accommodations for ladies were not available in the old courthouse. But since the new place is being constructed we're working on the women to submit names and intention to serve.

Q In the past several years there have been some Negroes included in the general venire. Is that right?

A That's correct.

Q Have there been any repetition of the use of the names of the same Negroes through this period of time?

A If they didn't serve—sometime we use them again and we use not only Negroes, white also.

Q No, but some that have served have their names been replaced on the general venire?

A After a period of one year we usually replace those we want.

Q Has there been more replacing of Negroes on that list than white?

A I think if you go by percentage it's about even, I [fol. 32] would imagine.

Q Percentages of Negroes that have been reput on there as there are whites.

A That's right.

MR. LOGAN: That's all.

THE COURT: Referring to State Exhibit "B" which is a copy of the questionnaires that you made reference to. You testified of course how you went about it and the thousands of people that you sent these questionnaires out to, and you testified as to receiving some of the questionnaires back. You further testified that the commission of which you are a member, the jury commission of which you are a member, discarded some of the ques-

tionnaires based on the answers received having to do with physical, physical impairments, lack of being able to read and write, physical impairments and so forth. Now in discarding any of these questionnaires, was any consideration at all given to whether or not the person was white or colored?

THE WITNESS: No.

THE COURT: Absolutely none.

THE WITNESS: No.

THE COURT: All of the questionnaires that you kept after scanning those that were not qualified because of the reasons indicated, you made a white card on each of those you kept. Is that correct?

THE WITNESS: Yes.

THE COURT: Those white cards which are exemplified by State Exhibit "A", and I'm not holding you to numbers, they go into the thousands I presume.

THE WITNESS: Yes.

THE COURT: Now in getting to the three hundred [fol. 33] or more names which are included in your general venire, repeat again how do you get those three or four hundred names.

THE WITNESS: The questionnaires naturally come in. We make a white card and we also make another slip of paper with the name and the address.

THE COURT: Now, the slip of paper that you referred to, that's taken from State Exhibit "A".

THE WITNESS: Yes, sir.

THE COURT: That runs into the thousands.

THE WITNESS: Yes.

THE COURT: Now the slip of paper of which we don't have here, that slip of paper, all it includes is the name and the address. Is that correct?

THE WITNESS: The ward and the precinct.

THE COURT: That slip of paper has no designation as to occupation, race and age or anything else.

THE WITNESS: That's correct.

THE COURT: Now from that point, how do you get the three or four hundred names that are included in your general venire.

THE WITNESS: By just putting the questionnaires on the table that we think is qualified and just taking

them indiscriminately by punching and removing the card and the slip of paper and putting them in the general venire box.

THE COURT: These three or four hundred people that go in the general venire box are placed in completely indiscriminately.

THE WITNESS: Yes, sir.

MR. PICCIONE: Your Honor, that's not what he said. He said in answer to my question and answer to your question that from the questionnaires and the white [fol. 34] cards that four hundred for the general venire box are picked and put in the general venire box—

THE COURT: You're wrong, Mr. Piccione.

MR. PICCIONE: Ask him again, Your Honor. He didn't say from the white slip. He said from the questionnaires.

THE COURT: What about the white slip, Mr. LeBlanc?

THE WITNESS: The white slip is attached to these in this order, and they are taken indiscriminately—

THE COURT: You mean the white slips are taken—

THE WITNESS: Away and placed in the general venire box.

THE COURT: At the time that you take the white slip which is devoid of any race, what if any knowledge does the jury commission have insofar as race is concerned in placing a particular white slip into the venire box?

THE WITNESS: They don't look at the questionnaires one way or the other if they're white or colored. They just take the questionnaires the way it is and put it in the box. It makes no difference if they're white or colored.

MR. PICCIONE: But if they look, it's there on "A" and on "B" too.

THE WITNESS: On there for purpose of identification only.

THE COURT: The question is, does the jury commission consider race in any form in placing the three or four hundred names into the venire list?

THE WITNESS: It makes no difference to them.

Q (By Mr. Logan) Do they know at the time that they place it in there the race if they care to look?

A I don't think they look, not the way they remove them from here and just putting them in the box because [fol. 35] they're working pretty fast and they've never yet discarded one that I know of.

Q You mean they take them in alphabetical order?

A They're not alphabetically. They just take them the way they come.

THE COURT: How long have you been following this system?

THE WITNESS: I'd say about two years.

Q (By Mr. Piccione) Mr. LeBlanc, you had mentioned that you had several thousand of these questionnaires that come back. Now you also mentioned that you discarded some of these before you ever made a white card on them. Isn't that true?

A Yes.

Q So you cut them down. About how many of them have they got left after you cut them down?

A I don't know. I've kept them all.

Q No, I mean by that about how many thousands or hundreds? What does it run to before you select the four hundred for the venire list?

A A couple of thousand I would say, Mr. Piccione.

Q All right. In other words, from a couple of thousand more or less you're going to select four hundred for the venire list. Am I right?

A Yes.

Q And all you're going to put in the venire box is a little slip of paper with a name and address. Is that right?

A Yes.

Q That's the slip of paper you referred to. Isn't that right?

A That's right.

Q Now, then, do you first select the four hundred that [fol. 36] you're going to put in that general venire and then make the slips of paper or do you make a slip of paper and pin it to all of two thousand cards and questionnaires?

A The slip of paper is made on the two thousand or whatever amount we work with. It's already made.

Q You got the two thousand in front of you, don't you?

A Yes.

Q And you have a questionnaire, you got a white card and you have a little slip of paper, all of it pinned together.

A That's right.

Q Now, do you then take them as they come or do you look at the information contained on the paper and then select four hundred?

A We take them as they come.

Q And you've seen the commissioners taking a look at them, haven't you?

A They might do that.

Q Well, they do look at them, don't they?

A It doesn't matter.

Q I mean, they do look at the name and they might see anything on there. You don't know what they see.

A That's right.

Q The proof of the result would be in effect whether or not or how many colored or how many white are actually included in the four hundred selected from the two thousand, isn't that so?

A That's right.

EXAMINATION

BY MR. LOGAN:

Q Mr. LeBlanc, you stated that you have the ward and precinct on there. Do you have these questionnaires [fol. 37] divided up by wards and precincts and select so many from each ward?

A No. When the questionnaires come in they usually put on there the ward and the precinct in which they live, and then we bill these cards together. But as far as selection by ward and precinct, we don't do that.

Q There's no distinction on ward and precinct when you select the four hundred for the general venire.

A No.

THE COURT: The main thing that this Court is interested in knowing is whether any consideration is given to the question of race in placing the four hundred or three hundred or whatever the amount is in the general venire.

THE WITNESS: The jury commission makes no distinction of race and color.

EXAMINATION

BY MR. LOGAN:

Q Do they know the race or color when they are selected?

THE COURT: He's testified and I'm satisfied that they're taking the matter from the beginning of the proceeding to the time that the three or four hundred names get in there, the final step, the question according to his testimony, the question of race is not considered.

BY MR. LOGAN:

Q When they select that slip, do they know or is it in front of them to where they can know what the race of a person is who they are selecting?

A It is in front of them, but I don't think that it makes any difference to them because in our discussion in the jury commission we well understood each other that there would be no distinction made for race.

[fol. 38] Q But you did discuss that question.

A We told them that regardless if he was white or black and he was qualified, it made no difference. They all know that.

(Informal discussion off the record.)

THE COURT: According to the motion made without objection, the Court orders Mr. LeBlanc to prepare and furnish a list of the three or four hundred names that are presently in the general venire box by race.

The Court further orders the Clerk of Court to furnish the number of whites and colored on the cards exemplified by State Exhibit "A".

MR. LOGAN: I'd like to make a motion that he also

furnish the race of each member of the grand jury panel which indicted these accused.

MR. DeBLANC: No objection.

THE COURT: The Court further orders the Clerk of Court to furnish the list of a designation of the members of the grand jury who indicted the accused by race.

BY MR. LOGAN:

Q Under Article 404 it says, "upon entering upon the duties the members of the jury commission shall take an oath to discharge their duties faithfully". When they were reappointed by the Judge, did they retake the oath or do they retake them each year or what?

A They took their oath when they were appointed by the Judge.

Q Recently?

A Yes.

MR. LOGAN: Thank you.

THE COURT: Show that the Court on its own mo- [fol. 39] tion with the acquiescence of both the State and defense states primarily in connection with the questions propounded by Mr. Logan to Mr. LeBlanc concerning the makeup and appointment of the jury commission, this Judge states that approximately five years ago when he took the bench that this Judge reappointed the then members of the jury commission who had been serving for some time prior, said members being Mr. Mike Donlon, J. Alfred Mouton, Andrus Martinez, Dr. Carol Mouton and Stanford Landry, and that these gentlemen were, as the Court recalls, periodically appointed through the years until the law concerning jury commissions was changed with the new Louisiana Code of Criminal Procedure in which instance the Clerk of Court who before had been an ex-officio member of the commission was now by law appointed to be a member of the commission and the commission provided for five members as contrary to the previous provision. In this instance the Court appointed —in this instance in view of the reduced number of the jury commission, the Court did not reappoint Mr. Stanford Landry but reappointed the other members the Court had referred to by name a moment ago.

EXAMINATION

BY MR. LOGAN:

Q At the time of the selection of the general venire, were all five jury commissioners present?

A Yes.

Q And do you know whether or not of your own knowledge whether or not the notice was sent to all of the commissioners as required by the statute?

A Right.

Q It was?

A It was.

[fol. 40] MR. LOGAN: That's all the questions I have.

(Witness excused)

MR. PICCIONE: Mr. Landry again, please.

Thereupon,

ERASTE R. LANDRY

was recalled as a witness, and having been previously sworn, was examined and testified further as follows:

EXAMINATION

BY MR. PICCIONE:

Q Mr. Landry, have you any knowledge of the population of Lafayette Parish? Do you know what it is?

A The population?

Q Yes, sir.

A It must be around a hundred thousand.

Q And of that population, do you have a knowledge bearing upon the proportion of colored people as compared to the white people in the population?

A Well, no, that I don't have. But I have a percentage of the State—

Q Of the entire State?

A Yes.

Q But not of Lafayette Parish.

A Each Parish.

Q What is the statistics that you're looking at there?

A That's a report from the Board of Registration in Baton Rouge.

Q In other words, it's an arm of the State of Louisiana. Isn't that right?

A Yes.

Q It's a record of an agency of the State of Louisiana.

[fol. 41] A That's right, Board of Registration.

THE COURT: Off the record.

(Informal discussion off the record.)

MR. LOGAN: I'd like to make it a part of the record for Pratt and we'll mark it Exhibit "D".

MR. PICCIONE: I offer it in evidence, Your Honor, as part of Alexander's case.

THE COURT: And what is it?

MR. LOGAN: It's the blank registration card from which Oliver LeBlanc obtained names to mail out his questionnaires.

MR. DeBLANC: No objection.

THE COURT: Let it be admitted.

(Witness excused)

MR. PICCIONE: Miss Agnes Felix.

Thereupon,

AGNES FELIX

was called as a witness, and having been first duly sworn, was examined and testified as follows:

EXAMINATION

BY MR. PICCIONE:

Q What is your name, please?

A Agnes Felix.

Q Where do you live?

A 100 Gilman Road.

Q Miss Felix, were you called as a witness before the grand jury in September, 1967 that indicted your son Claude Alexander?

A Yes, I did.

Q Did you testify before that grand jury?

A Yes, I did.
[fol. 42] Q Did you look at the grand jury?
A Yes, I did.
Q Were there any women on the grand jury?
A No, sir.
Q Were there any colored people on the grand jury?
A No, sir.
MR. PICCIONE: That's all.

EXAMINATION

BY MR. DeBLANC:

Q You were in that room and you didn't see any women in that room?
A Those who was typing.
Q But you didn't know whether they were members of the grand jury or not, did you?
A Yes, I did.
Q You saw some women in the grand jury room?
A Yes. They had one sitting right next to me.
Q Okay. So you did see some women in the grand jury room.
A She was the one that was doing the typing. And then they had another one sitting way in the back.
Q They had two women in the grand jury.
A Two women.
Q Now, they were all white?
A They were all white.
Q Do you know what an octoroon is?
A No, I don't.
Q An octoroon is a person who has one-eighth Negro blood. Do you know whether there were any octoroons in that room?
A No.
Q You don't know that.
[fol. 43] A I sure don't.
Q Do you know whether there were any quadroons?
A (No response.)
Q Do you know what a quadroon is?
A I know they was all white.
Q They looked like they were all white to you?

A They were all white.
Q But can you tell a quadroon from—
A All I can say is they were all white.
Q In your opinion they were all white.
A I know they were.
Q How do you know that?
A Well, I know. I was looking at them.
Q You studied books on—
A I don't have to study books to know white from colored.
Q So you're sure about that.
A They were all white.
Q And you don't know what a quadroon is.
A I don't want to know that. But I still say they were all white.
Q Do you know what a mulatto is?
A No.
Q You don't know what—
A I can tell you they were all white.
Q So you don't know whether there was any mulatto on there.
A I don't guess I'm crazy. I could see they were all white.
Q Answer the question.
A Well, I'm answering the question. They was all white.
Q Do you know whether there were any mulattoes on there?
[fol. 44] A They were white.
MR. DeBLANC: I wish she'd answer the question, Your Honor.
THE COURT: Answer if you know.
THE WITNESS: Well, all I can say they were all white. I didn't see no mulatto.
Q (By Mr. DeBlanc) You just said you didn't know what a mulatto was. Isn't that right?
A Well, of course I know what a mulatto is.
Q I thought you just said—the record shows that you said you didn't know what a mulatto was.
A I know they were all white.
MR. DeBLANC: We have no further questions from this witness.

EXAMINATION

BY MR. PICCIONE:

Q You know Miss Gilfoil the Assistant District Attorney?
A Yes, I do.
Q Did she question you?
A Yes, she did.
Q And was she one of the women you just referred to as being present in the grand jury?
A Yes.
Q And the only other woman you said was that secretary taking down the notes.
A Taking down the notes.
MR. PICCIONE: Thank you.

(Informal discussion off the record.)

(Witness excused)

THE COURT: Show that the record is left open for [fol. 45] the reports previously ordered and inclusion in the record as to the white/colored ratio or population in the Parish of Lafayette.

EVIDENCE CLOSED

* * * *

[fol. 426] MR. DeBLANC: The State announces out of the presence of the jury that it intends to introduce in evidence and through cross examination of the accused a confession and inculpatory statement which was made by the accused just a little while after the occurrence of the offense, and that it now announces its intention to show the voluntary nature of the confession and also [fol. 427] that the confession or statement was given by the accused and that at that time, at no time, was his constitutional rights violated.

MR. PICCIONE: Your Honor, to which declared intention the defense objects on the ground that the alleged confession is not proper, in the first place, in the manner in which it was taken and is against the constitutional

rights of the accused and is particularly objectionable because it is against Miranda -vs- Arizona on the various warnings that should have been given thoroughly to him and on having consisted of questions not so much as answers and having consisted of something taken down which was not approved by the witness, by the defendant, which was not signed by the defendant at a time when he was in custody, in handcuffs, in the presence of hostile officers, at a time when his request to speak to his mother was not honored, at a time when he was under the pressures of fear and under police custody and otherwise in violation of Miranda, and that the fruits of such an illegal procedure are at no time admissible, not now, not on direct. It is certainly not admissible now on cross examination.

THE COURT: Is this a written statement or oral?

MR. DeBLANC: This is an oral statement.

THE COURT: Was this statement reduced to writing?

MR. DeBLANC: This statement was reduced to writing. The State will show the statement was reduced to writing, but was not signed by the accused, but that it was read by the accused, read to him and read by him, and that he approved of it but did not sign it.

THE COURT: It's the intention of the State then to introduce into evidence the statement and also as I un-
[fol. 428] derstand it to question the Defendant on the subject. Is that right?

MR. DeBLANC: On the subject as to whether or not they complied with the Louisiana law on the question of the voluntary nature of the confession or statement, inculpatory or exculpatory, and that it complied also with the Supreme Court decision and especially the case of Miranda.

MR. PICCIONE: Of course, Your Honor, our objection is additionally on the ground that it is not legally taken either under State law or Federal law, that it is not the statement of the accused and that's why he didn't sign it, but it's the statement of officers of what they would like for him to have said.

THE COURT: All right. Gentlemen, then, I would say that we're now ready for the State to proceed in its effort to show the validity of the statement, confession, inculpatory or exculpatory statement, whatever it may be.

The Court will now hear evidence on that subject to determine whether or not this statement, whatever its form is, complies with the recent United States Supreme Court decisions and particularly Miranda which I think is the last expression of the Supreme Court on that subject.

Is the State now ready to proceed?

MR. DeBLANC: The State now calls Capt. Picard.

EXAMINATION ON VALIDITY OF STATEMENT

Thereupon,

SHIRLEY PICARD

was recalled as a witness, and having previously been sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. DeBLANC:

[fol. 429] Q State your name, please, sir.

A Shirley Picard.

Q And you are the same person who testified before in this case?

A Yes, sir.

Q Now, do you know the accused Claude Alexander?

A Yes, sir.

Q Do you see him in this courtroom?

A Yes, sir.

Q Would you point him out to the court?

A Next to Mr. Piccione.

Q Now, did you have occasion to see him and talk to him on September the 4th last year?

A Yes, sir.

Q Where was that?

A In the detective's office, City Police Station.

Q What time of the day or night was that?
A Approximately two thirty a.m.
Q How long did you talk to him there?
A Possibly an hour.
MR. PICCIONE: Of course, Your Honor, I believe that it's clear that my objection extends to all of this testimony.
THE COURT: Certainly.

(Informal discussion off the record.)

Q (By Mr. DeBlanc) Who was there when you talked to him?
A Officer Sidney Broussard and Officer Navarre, Anthony Navarre.
Q Were they there the entire time or part of the time?
A To the best of my knowledge they were, sir.
Q What?
[fol. 430] A They were there.
Q They were there at the time?
A Yes, sir.
Q Were they there during the entire hour you were talking with him?
A Yes, sir.
Q Now while you were talking to him, did he make any statement to you?
A Yes, sir.
Q Was this statement that he gave to you an oral statement or a written statement?
A Oral.
Q This statement which he gave, did you reduce it to writing?
A Yes, sir.
Q What type of writing?
A Typewritten.
Q Who reduced it to writing? Who wrote it out?
A I did.
Q Now at the time that he made this statement to you, did you or anyone else in your presence promise him anything?
A No, sir.

Q Did you or anyone else in your presence menace him, intimidate him or threaten him in any manner to cause him to give you a statement you said he gave?

MR. PICCIONE: Excuse me, Your Honor. I object to the question as containing conclusions and being leading. The witness can be asked what happened and we'll find out the facts from the lips of the witness rather than the conclusions from the lips of the asker, the questioner.

[fol. 431] THE COURT: I think that the State has the right to lay the proper foundation to determine the validity of it. The State certainly has a right to determine whether or not both the State law and the Federal law has been covered. I don't think it's leading. I'll overrule your objection.

MR. PICCIONE: I'd like to reserve a bill making a part of it the question of the District Attorney and the objection of counsel and ruling of the Court.

THE COURT: All right, let a bill be reserved.

Q (By Mr. DeBlanc) Did you or anyone else in your presence intimidate him in any way to cause him to give you the statement that you said he gave?

A No, sir.

Q Did any person in your presence or yourself subject Claude Alexander to any treatment designed by effect on body or mind to compel him to confess?

MR. PICCIONE: Same objection, Your Honor.

THE COURT: Same ruling.

MR. PICCIONE: Same bill of exception.

THE COURT: All right.

THE WITNESS: No, sir.

Q (By Mr. DeBlanc) This statement that he gave you on that day, was this statement given freely and voluntarily?

A Yes, sir.

MR. PICCIONE: Same objection, Your Honor.

THE COURT: Same ruling and let a bill be reserved.

Q (By Mr. DeBlanc) Are you familiar with what is known now as the Miranda warning?

A Yes, sir.

Q Did you or someone else give him that warning?

[fol. 432] MR. PICCIONE: Your Honor, I object to the continued nature of the leading questions. In fact the last question asked a legal question and I don't believe—

THE COURT: I think possibly you're right on that, Mr. Piccione.

You may ask him what he did in that connection.

Q (By Mr. DeBlanc) What did you do in connection with what is now known as the Miranda warning?

MR. PICCIONE: Your Honor. I don't think that the witness has been established as knowing what the Miranda warning is, and whether he does or not would not necessarily have any relevancy as to what he did on the occasion on taking the statement.

Q (By Mr. DeBlanc) Are you familiar with the Miranda case, the warning?

A Yes, sir.

Q Now, what did you tell him, if anything?

A I advised him he had the right to remain silent, that anything he said could be used against him in court, that he was entitled to an attorney, and if he couldn't afford an attorney one would be offered to him, and also that he had the right to stop talking at any time he felt like it.

And I also reached over my desk, I had a little typewriter table, I handed him the phone personally over my desk for him to use the phone and he said he didn't want to use it.

Q In other words, you gave him a chance to make a phone call.

A Yes, sir.

Q Now, tell the Court just exactly what were the facts upon which, without telling us what the statement is, the [fol. 433] facts upon which led up to your getting this statement from him.

A I asked him what happened in the park and he explained it to me, what took place in Girard Park.

Q Well, that was the question that you asked the accused?

A Yes, sir.

Q And he told you what happened in the park?

A Yes, sir.

Q Then how did you put it down?

A At first I was writing it down, hand writing it on a piece of paper.

Q And where were you getting the information to write?

A From Alexander.

Q He gave you the information?

A Yes, sir.

Q And after you got it written down with a pencil, what did you do?

A I told him that I was going to type it on the typewriter. He said, "All right". And after I finished typing it I read it to him, and after I read it to him I handed it to him and he looked at it for a while and he said, "That's exactly what happened".

Q And he didn't sign it?

A No, sir.

Q Did he say why he wouldn't sign it?

A He asked me where his shoes were and I told him I didn't know. He asked me again, I said, "I don't know". He said, "I'm not signing anything until I get my shoes", andche threw the pencil down.

MR. DeBLANC: We're tendering the witness to determine whether or not the statement which the man is [fol. 434] alleged to have given is true and voluntary and whether it complied with the constitution.

CROSS EXAMINATION

BY MR. PICCIONE:

Q Captain, where did this take place?

A In the detective's office, my office, at the City Police Station.

Q On Pierce Street?

A Yes, sir.

Q What time of day was that?

A About two thirty a.m. in the morning.

Q Well, now you asked him some questions?

A I asked him what took place in the park.

Q You were interrogating him, weren't you?

A Not at first. I asked him what happened and he told me.

Q You were questioning him?

A I asked him what happened in Girard Park.

Q I say, were you asking him questions?

A The only question I asked him was that.

Q Now, he had his handcuffs on?

A No, sir.

Q He didn't have his handcuffs on?

A No, sir.

Q Was he under arrest?

A Yes, sir.

Q He was in custody, wasn't he?

A Yes, sir.

Q Did you sit him down in that room?

A Yes, sir.

[fol. 435] Q You sat down?

A Yes, sir.

Q Now, do you remember when one of the other officers brought in coffee?

A No, sir.

Q You don't remember one of the other officers bringing in coffee?

A No, sir.

Q Well, do you remember that after one officer did bring in something that they left and only you and Claude Alexander were in the room alone?

A No, sir.

Q Do you deny that you and Claude Alexander were in the room alone when these questions and answers were given, if any answers?

A Yes, sir.

Q You deny that?

A Yes, sir.

Q Do you deny that for most of the time the other officers were not anywhere near that room, they were outside that room?

A Yes, sir.

Q You deny that?

A Yes, sir.

Q Is it not a fact that Claude Alexander told you he wanted to call his mother?

A No, sir.

Q And you failed to let him do so?

A No, sir. I handed him the phone, sir.

Q You deny that you did not let him call his mother?

[fol. 436] A He did not ask to call his mother.

Q And you say that Claude Alexander said, "That's what happened", but he yet refused to sign the paper that you drew up. Is that right, sir?

A Yes, sir.

Q He agreed to it but he didn't agree to it. Is that right, sir?

A He did not sign it, sir.

Q He didn't sign it.

A No, sir.

Q You signed it.

A Yes, sir.

Q And you so stated on your typewritten version that he refused to sign it.

A Yes, sir.

Q You asked him to sign it?

A Yes, sir.

Q And he refused. Is that right?

A I handed him the pen and he started to sign it. He said, "I want my shoes". I said, "I don't know where your shoes are". He asked me again and I said, "I don't know where your shoes are". Then he said, "I'm not signing anything until I get my shoes", and he threw the pen down. And I advised him that he didn't have to sign it.

Q Think back very carefully. When you showed him this statement, did he tell you this was not his statement, it was your statement?

A No, sir.

Q And for that reason he refused to sign it.

A No, sir.

[fol. 437] Q Now, what was the first question you asked him?

A I asked him what happened in the park, in Girard Park.

Q All right. Now, how long after that did you give him any warning?

A I gave him the warnings before I talked to him.

Q What was the first question you asked him?

A The first question?

Q Yes, sir.

A I told him—I advised him of his rights, then I asked him what took place in Girard Park.

Q Now, Capt. Picard, think very carefully. Did you tell him he had a right to consult an attorney before giving any statement?

A Yes, sir.

Q Now, you told him that?

A Yes, sir.

Q Now, think very carefully on this one. Did you tell him that if he couldn't afford, if he didn't have the money, and couldn't afford to hire a lawyer that the Court would appoint one for him before he had to discuss it and that lawyer could be present before you could question him and he wouldn't have to answer anything?

A I advised him that if he couldn't afford an attorney that one would be brought for him.

Q Did you tell him that?

A Yes, sir.

Q You say that under oath, Captain?

A Yes, sir.

Q You're not just saying that to try to get this confession in, are you?

[fol. 438] A No, sir; no, sir.

Q It's not a desperation at the last minute to qualify a confession that's rotten from the beginning?

A No, sir.

Q You know that Miranda case pretty well, don't you?

A I've heard it pretty much, yes, sir.

Q You've studied it?

A I read about it.

Q You studied it since you took that statement?

A I heard about it before the statement.

Q Who had this sheet for a voluntary statement printed? Did you have it printed?

A No, sir, the Lafayette Police Department.
Q Who worded the statement?
A Lafayette Police Department I presume.
Q Are those the words printed on there that you read to Claude Alexander?
A I did not read him the words on the statement, sir.
Q Did you tell him words to that effect?
A I advised him of his rights.
Q Did you tell him words to the effect of this statement?
A Yes, sir.
Q Is that what you went by, the words on this statement?
A No, sir.
Q You didn't use this to refresh your memory?
A No, sir.
Q Do the words on this statement say anything about him being advised that if he did not have the money to hire a lawyer one would be appointed for him by the State?
A No, sir.
[fol. 439] Q It doesn't say that, does it?
A No, sir.
Q But you say you said it.
A I said it, yes, sir.
Q Is it not a fact that in asking these questions you were leading him all the time saying "wasn't it this way", "didn't you meet so and so", "didn't you meet Allen Breaux", "didn't you all go in the park", "didn't you all see the boy and the girl", "didn't you all say let's go get them", "didn't you all have relations with the girl". Isn't that the way it was?
A No, sir.
Q And when Claude Alexander wouldn't answer, did you put down in substance the question as though he had affirmed it?
A No, sir.
Q As though he had approved your question?
A No, sir.
Q Isn't it a fact that the facts were contained in your questions, not in his answers?

A No, sir.

Q Now, Captain, is it not a fact that you repeatedly asked Claude Alexander if he had not raped the girl? You did that more than one time, you remember that?

A No, sir.

Q You deny that you asked him several times did he rape the girl?

A No, sir.

Q Did he not answer you repeatedly that he did not rape the girl?

A He never did state that he raped her.

Q He didn't say that he did?

[fol. 440] A No, sir.

Q Well, did he say he had intercourse with her?

A He said he was about to.

Q Now my question is this, did he not repeatedly say—

THE COURT: Excuse me, Mr. Piccione. I don't mean to cut you, but just for clarification, it seems that this hearing at this time is restricted—let me put it this way. Let me ask both of your opinions. Is it encumbent upon the Court at this time to be appraised of what the statement was or what its content was? It's my impression that we're here now for the purpose of determining whether or not this accused was given the proper warning as illustrated in the Miranda case prior to any statement that he made.

I think what this Court will be called upon to do is to determine whether or not the statement, exculpatory or inculpatory or oral or written, confession, was given freely and voluntary and under the warnings as indicated by the United States Supreme Court. I doubt whether or not this Court wants to hear what the statement was or the methods of interrogation at this time.

(Argument off the record.)

THE COURT: Miranda says nothing except that interrogation—and Miranda presupposes that interrogation cannot commence until such time as the proper warnings, three or four or five steps ahead of it, are given.

Assuming that I would allow this to go before the jury, I'm not indicating one way or the other, I want to hear everything including the accused on this, then I think you can go into every facet of it before the jury. This Court is only interested in knowing whether or not this [fol. 441] man was assured of his constitutional rights under Miranda.

(Argument off the record.)

Q (By Mr. Piccione) Capt. Picard, what kind of a chair was Alexander sitting in when you questioned him?
A A chair with a padded back.
Q And you were in the chair opposite him?
A Yes, sir, across the desk.
Q And where was Sidney Broussard sitting?
A Sidney was—it would be to my right.
Q Was he standing up or sitting?
A He was sitting. And Navarre would be to my left.
Q He had his pistol on?
A Yes, sir.
Q You had your pistol—
A I couldn't answer that, sir. He was in plain clothes.
Q Was Officer Navarre there?
A Officer Navarre was there.
Q Was he standing up or sitting down?
A He was sitting down at one time and he stood up.
Q How close was he to Alexander?
A Oh, the chair next.
Q He had his pistol on?
A Yes, sir.
Q Now, were there any friends of Claude Alexander in that room at that time?
A Sidney Broussard had his pistol on too.
Q Were any friends of Claude Alexander in that room at that time?
A No, sir.
Q So everybody in there were hostile towards him. Is [fol. 442] that right?
MR. DeBLANC: We object to that, Your Honor.

(Argument off the record.)

Q (By Mr. Piccione) Capt. Picard, you said that you told him something about his right to remain silent?

A Yes, sir.

Q And did he remain quiet and gave you no answer when you told him that?

A Not during that saying, no, sir.

Q In other words, he didn't say anything. You did the talking, didn't you?

A After I advised him of his rights I said, "What happened in the park?", and he told me.

Q In other words, you were advising him of his rights and telling him everything and he made no response. Is that right, sir?

A After I advised him of his rights I asked him what happened in the park and he told me.

Q Right. In other words, the first thing he started to say was when he began to tell you what happened in the park. Is that correct?

A He started from the beginning, yes, sir.

Q All right, sir. In other words, the first thing he said was when he started from the beginning of what happened in the park. Is that correct, sir?

A No, sir—

Q So that at no time did you get an answer from him on any election by him or any decision by him of whether he would freely talk. Is that right?

A When I asked him what happened in the park—

[fol. 443] Q He started telling you.

A Yes, sir.

Q But he didn't tell you that yes, he would agree to talk, did he?

A No, he just started talking.

Q All right, sir. And is it also correct that he just started talking about what happened in the woods and he never did respond to what you said about his rights to have a lawyer? He didn't say anything to the effect, "Well, I'll do without a lawyer. Whether or not I can afford one or whether the State will appoint one for me I'll do without one".

A He didn't ask for an attorney.

Q He just kept silent. Is that right, sir?

A He kept silent until he told me what happened in the park.

Q And as far as you could tell, do you even know that he really heard and concentrated and understood what you said to him about his right to counsel and if he couldn't afford one because he was an indigent that he would have one appointed by the State?

A I don't know what his thinking was.

Q In other words, he didn't express his thinking, did he?

A Not to my knowledge.

Q He said nothing to show you the state of his mind in response to your warnings until he began to say what occurred in the park, isn't that right, sir?

A No, sir.

MR. PICCIONE: I'll rest on that, Your Honor.

THE COURT: Does the State have any redirect on that subject?

[fol. 444]

REDIRECT EXAMINATION

BY MR. DeBLANC:

Q Have you had—did you take any kind of training insofar as knowing how to conduct interrogations are concerned?

A We had schooling, yes, sir.

Q What school have you been to?

A We had a few classes in the Inservice Training, and we went to Baton Rouge Police Department three days on investigation and in New Orleans, the Police Department.

Q Were some of the classes relative to interrogation of a—

A We had some schooling.

Q And what were some of the things they told you at those classes insofar as correct interrogation of suspects were concerned?

A First of all expressing the right—you have to notify the person arrested of his rights.

Q What did they tell you you had to do? What rights—

A To remain silent—the last schooling I went to was about ten years ago.

Q Well, have you had occasion to discuss the matter of correct interrogation of suspects since that time?

A Only of what we read in the books, sir.

Q Have you had occasion to read in the books about correct interrogation to comply with Supreme Court decisions?

A The Miranda case and the Escobeda.

Q You're familiar with that, the requirements?

A Yes, sir.

Q And have you had occasion to go to any monthly meetings of an organization known as the Fifteenth Ju-
[fol. 445] dicial District Peace Officer Association and heard lectures on that?

A I didn't make that, sir.

Q You didn't make that?

A No, sir.

Q Now after you gave him what you said was the correct warning of his rights, then what did he say insofar as understanding what he said?

MR. PICCIONE: Your Honor, I object to that because he already testified that he didn't say anything until he started talking about what happened in the park.

THE COURT: He's under redirect. I'll overrule the objection. The Court wants to get to the bottom of it.

Q (By Mr. DeBlanc) When you told him that, what did you do then? Did you stop a while? What did he do?

A After I told him of his rights I looked at him and I said, "What happened in the park?",—that's after I handed him the phone to use the phone.

Q But before you asked him what happened in the park you told him—you gave him the warning—

MR. PICCIONE: I object to the leading question, Your Honor.

THE COURT: I'll sustain that.

Q (By Mr. DeBlanc) At the time that you asked him what happened in the park, when in respect to that time had you given him the warning?

A Just before I advised him of his rights.

Q What did he say when you offered him the phone?

A He said he didn't want to use it.

Q Did you offer him the phone before you started questioning him?

[fol. 446] A I asked him if he wanted to use it.

Q Before you started questioning him?

A Yes, sir.

Q Did he seem to understand what you were saying when you advised him of his rights?

MR. PICCIONE: I object to that, Your Honor, as to what the accused understood.

THE COURT: You may state what your observation was.

Q (By Mr. DeBlanc) Did he appear to understand what you said?

A To me he did, sir.

MR. DeBLANC: We tender the witness.

RECROSS EXAMINATION

BY MR. PICCIONE:

Q When you said "to you", in other words you're acknowledging that that's your opinion. Is that right?

A It struck me that he understood what I was telling him.

Q That's your opinion.

A Yes, sir.

Q Now, Capt. Picard, I remind you that you are an officer of the law and the first type of person that should respect that law and I remind you that you're under oath and I as you to think carefully on this question. Did you on that occasion before you proceeded to discuss what happened in the park, did Claude Alexander say to you in effect or words to the effect, "Take me to the jail"—"take me to jail so I can get some sleep", words to that effect?

A No, sir.

Q Now, think about this. And do you remember telling him, "Not until you tell me what happened"?

[fol. 447] A No, sir.
Q Now, you've thought about that?
A Yes, sir.
Q And you deny that?
A Yes, sir.
MR. PICCIONE: No further questions, Your Honor.
MR. DeBLANC: That's all.

(Witness excused)

THE COURT: Gentlemen, it's 12:00 o'clock. Would you all agree rather then bring the jury back just to have the Bailiff—
MR. PICCIONE: No objection.
THE COURT: All right. We'll recess until 1:30.

(Thereupon a recess was taken until 1:30 o'clock p.m., of the same day.)

[fol. 448] AFTER RECESS

(The trial reconvened at 1:30 o'clock p.m., pursuant to the taking of recess.)

(Informal discussion off the record.)

MR. PICCIONE: We'd like to add to our objection of the pro-offered confession under which we are now getting the preliminaries this additional ground for our objection, Your Honor, that the State gave me written notice before the commencement of the trial and before the State's opening statement that it intended to use a confession and we received this notice of their intention.

The State put its case on the stand, the State did not endeavor to bring in the oral statement now sought to be introduced in evidence by way of cross examination of the accused.

The State rested its case without having made any mention of that statement that I was notified of an intent to be used by the State. The State rested is case without ever even trying to get it in and I object further on the ground that it now comes too late, as well as the previous grounds.

(Argument off the record.)

THE COURT: Let the objection be noted. Of course the outcome of that objection would depend of course upon whether or not the Court allows reference to the statement or introduction of the statement or both, either by way of direct testimony or by way of cross examination.

It would appear to me however, assuming that the statement would be admitted, assuming that it would be, it would seem to me that if it is legal, and the Court is by no means saying that at this time because the Court hasn't heard all the evidence on it, but it would seem to me that [fol. 449] the State would have the right to use it on the cross examination of the accused inasmuch as the accused has taken the stand.

So that would be my impression at this time. However, gentlemen, it all depends of course upon what the ruling of the Court is as to its admissibility in the first place.

MR. DeBLANC: The State now calls to the stand Sidney Broussard, Officer Sidney Broussard.

Thereupon,

SIDNEY JOSEPH BROUSSARD, JR.

was recalled as a witness, and having previously been sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. DeBLANC:

Q Officer Broussard, do you know the accused Claude Alexander?

A Yes, sir, I know him.

Q You see him in court?

A Yes, sir.

Q Point him out to the Court, please.

A Right next to Mr. Piccione.

Q Now, did you have occasion to see Claude Alexander at the police station on the early morning hours of September the 4th last year?

A Yes, I did.

Q Where was that at the police station?

A In the detective room. He was in the room with Capt. Picard.

Q Would you describe that room, what it looks like? The width, the length and all that.

[fol. 450] A Oh, it would be approximately, I'd say, twelve by fourteen probably.

Q What is it used for?

A For interrogation purposes. It's used by the detective division.

Q Is that somebody's office?

A Right. It's Capt. Picard's.

Q That's Capt. Picard's personal office?

A Well, his division, detective division office.

Q Is there a desk in that office?

A Right.

Q Who uses that office regularly?

A Capt. Picard.

Q And where's this police station located?

A Off of—on South Pierce Street.

Q What floor is that on?

A First floor.

Q It's a one story building?

A Yes, sir.

Q Is this connected with the jail there?

A No, sir, it's not.

Q There's no jail around there?

A No, sir.

Q What's in that building besides this office here?

A Well, we have the radio room, ID room, men's and ladies' restroom, Chief of Police's office, Inspector's office, a small traffic department office, the kitchen, a lounge you can say, where we drink coffee; a coffee room.

Q It's more or less of an office building. Is that right?

A Right.

[fol. 451] Q Is that room smaller or larger than the rest of the offices?

A I wouldn't say it's any smaller than the rest. It's about the same as most of the rooms.

Q What kind of furniture do you have in there?

A Well, we have approximately two chairs, a desk and another chair behind the desk.

Q Now, who was in there when you saw Claude Alexander?

A Capt. Picard.

Q Could you state about what time that was?

A I'd say approximately two thirty.

Q Now, could you describe the accused, how did he look, how was he dressed? Could you?

A Well, he was dressed in a white T shirt, a dirty white T shirt, and a pair of brown pants when I seen him.

Q Now, did you hear any conversation between him and Capt. Picard?

A I heard Capt. Picard advise him of his rights.

Q Well, how did he advise him of his rights? What did he tell him?

A Well, he advised Claude Alexander that he had to understand his rights, that his rights were—he had the right to remain silent, that anything said against him could be used in court, he had a right to an attorney, if he didn't have an attorney one would be appointed to him, and he had the right to make a phone call, and also he had the right to—if he would answer questions, he had the right to stop answering questions any time he pleased.

Q Well, you heard him say that to Alexander?

A Correct.

[fol. 452] Q What did Alexander say, if anything, to this?

A He didn't answer out loud, orally. He sort of nodded his head.

Q And do you know if you or anyone else in your presence promised him anything to make him give the statement he's supposed to have given?

A No, sir.

Q Did you or anyone else in your presence intimidate him in any way to cause him to give that statement?

A No, sir, we didn't.

Q Did you or anyone else place him in fear of duress—

MR. PICCIONE: Objected to, Your Honor, as containing conclusions. He can ask the witness what was done and what happened.

THE COURT: I think I ruled on that this morning or a similar objection. I indicated that the State had a right to qualify the witnesses under the code—

MR. PICCIONE: Your Honor, my objection is that the questions are containing conclusions and that the facts ought to be there before the conclusion is there.

THE COURT: I'll overrule your objection.

MR. PICCIONE: I'd like to reserve a bill on that, Your Honor.

THE COURT: Let a bill be reserved.

MR. DeBLANC: Read the question to him.

(The pending question was read by the Reporter as above recorded.)

THE WITNESS: No, sir, we didn't.

Q (By Mr. DeBlanc) Let me finish the question. Did you or anyone else place him in fear of duress to cause [fol. 453] him to give you the statement he gave to Capt. Picard?

A No, sir.

Q Did you or anyone else menace him or threaten him in any way to make him give that statement?

MR. PICCIONE: Same objection, Your Honor.

THE COURT: Same ruling, and let a bill be reserved.

THE WITNESS: No, sir.

Q (By Mr. DeBlanc) Did you or anyone else subject him to any treatment designed by effect on body or mind to compel a confession?

MR. PICCIONE: Same objection, Your Honor.

THE COURT: Same ruling, and let a bill be reserved.

THE WITNESS: No, sir.

Q (By Mr. DeBlanc) This statement that you say he gave, you said he gave a statement to Capt. Picard, that statement was then a free and voluntary statement?

MR. PICCIONE: Same objection, Your Honor. That's a conclusion that the Court has to make and it's contained in a question that is leading.

THE COURT: I'll overrule the objection.

MR. PICCIONE: I reserve my bill.

THE COURT: Let a bill be reserved.

THE WITNESS: Yes, it was.

Q (By Mr. DeBlanc) Now when you got there, what was going on insofar as the conversation between Capt. Picard and Claude Alexander?

A None that I remember. In other words, when I walked into the room Capt. Picard was just sitting down in his chair.

Q They weren't talking to each other?

A Not that I recall.

[fol. 454] Q Okay. Now, then what was the first thing you heard Capt. Picard say insofar as the conversation to this man?

A The first thing he said?

Q How did this start off?

A Well, Capt. Picard stated that he had to understand his rights and he proceeded to advise him of his rights.

Q All right. Now after that and after he nodded, what happened then?

A Capt. Picard asked him what happened in the park.

Q And did he answer that question?

A Yes, sir, he did.

Q And was it then that he gave the statement that he gave?

A Correct.

Q Now, were you there for the entire statement or part of it?

A I was there for the entire statement.

Q Was anyone else there while he was giving that statement?

A Not that I recall, not the entire statement. I remember some officers walking in and out. I mean, the door opening.

Q Now, we heard you say that he told him that he was entitled to make a phone call. Did he make a phone call?

A No, sir. He said he didn't want to make a phone call.

Q Well, how was it offered to him?

A Capt. Picard advised him that he had a right to make a phone call and Capt. Picard picked up the phone and pushed it across the desk and Claude Alexander said that he didn't want to make a phone call.

Q Now the statement that he made, that you say he made, was it a written or oral statement?

[fol. 455] A An oral statement.

Q Was it reduced to writing?

A Yes, sir.
Q Who reduced it to writing?
A Capt. Picard.
Q How?
A While he was giving the statement, he took down notes.
Q In longhand with a pencil?
A Correct, and then he typed it up.
Q Who typed it up?
A Capt. Picard did, sir.
Q And after he typed it up, what did he do with it?
A He read it out loud to Claude Alexander.
Q And then after he read it out loud to Alexander, what did he do?
A He offered the statement to Claude Alexander to have him sign it.
Q Well, what did Alexander do?
A He said that being that we couldn't give him his shoes he wouldn't sign the statement.
Q Did Alexander indicate to you that he understood what Capt. Picard told him concerning his rights?
MR. PICCIONE: I object to that as being leading, Your Honor, and—
THE COURT: I'll sustain that objection.
Q (By Mr. DeBlanc) Well, after he explained his rights, did Alexander say anything or do anything?
A After his rights were explained, the only thing—he didn't say anything. He just nodded his head.
MR. DeBLANC: We tender the witness.

[fol. 456] CROSS EXAMINATION

BY MR. PICCIONE:

Q Mr. Broussard, you remember that night that you had hit this man on the head with your gun?
A No, sir.
Q You don't remember that?
A No, sir.
Q Do you know how he got the blackeye on his left eye?

A Not that I know of.

Q Oh, you mean you didn't see the blackeye on his left eye?

A No, sir, I didn't notice.

Q You didn't know about that?

A No, sir.

Q You did drop your gun on the pavement, didn't you, sir?

A Correct.

Q And that was when you were in first contact with this man, isn't it?

A No, sir.

Q This was not when you came in contact with him?

A No, sir. I hadn't touched him at any time I dropped the gun.

Q You dropped your gun before you came in contact with him?

A I dropped my gun after I had placed him under arrest and he was lying face down.

Q Now, you've attempted to state what Capt. Picard said to Claude Alexander. Now, let me see if I can help you to refresh your memory and I remind you that you're under oath and you're an officer of the law and if anybody [fol. 457] respects the law it ought to be officers of the law.

MR. DeBLANC: I don't think that that's necessary, Your Honor.

(Argument off the record.)

THE COURT: I think the objection is good, Mr. Piccione. I'll sustain it.

Q (By Mr. Piccione) Is it not a fact that Capt. Shirley Picard at no time said to this man that if he was poor and could not afford a lawyer that the State would appoint one for him?

A You're asking me if Capt. Picard did say that?

Q I'm asking you is it not a fact that he did not say that?

A No, sir. He advised him of his rights. He had the right to an attorney, if he could not afford one that one would be appointed to him.

Q You say those were his words?

A As close as I can put it.
Q And Claude didn't answer, did he?
A No, sir.
Q He didn't answer.
A No, sir.
Q You say that he told him he could remain silent.
A That's correct.
Q That anything against him could be used. That's what you said, isn't it.
A Correct.
Q You mean that he didn't tell him then what he said could be used against him.
A Pardon. Repeat that question?
Q I understood you to say that anything against him could be used. Now, is that correct?
[fol. 458] A Anything said that he said could be used against him in court.
Q Now, do you want to change your testimony?
A No, sir.
Q Are you correcting yourself now?
A No, sir, I'm not.
Q In other words, you're now saying that what he said could be used against him. Is that right?
A Correct.
Q And when he said that to Claude, Claude didn't answer.
A He didn't answer.
Q He didn't respond, did he?
A He didn't answer.
Q And you can't read his mind, can you, sir?
A No, sir, I can't.
Q And you don't believe that Capt. Picard has that kind of power either, do you?
A No, sir.
Q Now while you were in there, you said you were in there, did you have your pistol on?
A Yes, sir, I did.
Q Capt. Picard had his pistol on?
A I don't recall.
Q Was anybody else in there?
A Not that I remember or know of.

Q Officer Navarre was not there?
A If he was I didn't see him.
Q You didn't see him.
A No, sir.
Q Just you and Capt. Picard. Is that right?
[fol. 459] A Correct.
Q Is it not a fact that you left the room most of the time and Capt. Picard was in that room alone with Claude Alexander? Isn't that correct?
A No, sir, it's not.
Q You say you were in there for the entire statement.
A Correct.
Q That's a fact. Just you two and Claude Alexander. Is that right?
A Yes, sir.
Q The door was closed?
A The door was closed, yes, sir.
Q And every now and then some other officer came through. Is that right?
A They opened the door, yes, sir.
Q And in fact one officer brought in some coffee. Isn't that right?
A Not that I recall, no, sir.
Q You don't recall that?
A No, sir.
Q And they kept coming in and out?
A I've seen the door open several times, yes, sir.
Q And they had their pistols on?
A I couldn't answer that.
Q Now, I ask you still to see if your memory will not be refreshed. Do you recall Claude Alexander saying that he wanted to call his mother?
A No, sir, I didn't hear that.
Q You didn't hear that?
A No, sir.
[fol. 460] Q You think you heard everything that took place?
A I think so.
Q There weren't one, two, three people talking at one time?
A No, sir, not that I heard.

Q Do you recall that when the Sergeant wanted to question him he said, "Why don't you take me to jail so I can get some sleep"?

A No, sir.

Q Now, think about that.

A I didn't hear that at all, sir.

Q Are you trying to remember?

A Yes, sir.

Q You're trying to remember?

A Correct.

Q And you didn't hear him say in exhausted fashion that he wanted some sleep?

A No, sir, I didn't.

Q Did you hear Sgt. Picard after such a statement say, "Not until you tell me what happened"?

A No, sir, I didn't hear that at all.

Q You didn't hear that?

A No, sir.

Q But all during this time that Capt. Picard explained to him his rights, he didn't say a word. Isn't that correct?

A Correct.

Q And when the Sergeant began to question him, he had to ask him several questions before he gave one answer, didn't he?

A No, sir, not that I've heard.

[fol. 461] Q I don't know if I asked you this question. If I did please overlook it. But when you say that Capt. Picard told him that if he couldn't hire a lawyer that one would be furnished to him, Claude Alexander didn't answer.

A Correct.

Q You didn't hear a word from him.

A No, sir.

Q Now, I want to ask you this question. You stated a while ago that after this was written out by Capt. Picard that he, Capt. Picard, read it back to Claude Alexander.

A Correct.

Q Now, is that correct?

A That's right.

Q And if Capt. Picard said that he didn't read it but rather that he gave it to Claude and Claude read it, who would be right or wrong, you or Capt. Picard?

A Well, you're asking about my statement, sir. To me Capt. Picard read the statement.

Q In other words, that's your recollection.

A That's right.

Q Your recollection then is that Claude here didn't read the statement. Is that right?

A That's right.

Q Now the statement that you say Capt. Picard read, was it typed or was it written out in longhand?

A It was typed.

Q Typed by Capt. Picard?

A Yes, sir.

Q Written down by Capt. Picard, words?

A Capt. Picard was taking notes.

[fol. 462] Q He typed it from his notes. Is that right?

A Correct.

Q Now, you didn't see a recording machine taking down the questions and answers?

A No, sir, I didn't.

Q You all have a recording machine in the police department?

A We have one, yes.

Q You've got about five or six, haven't you?

A Yes, sir.

Q The Captain Improvement Commission has furnished you all with five or six of them, haven't they?

A I know of two that I know of.

Q And you all didn't use the recording machine for an important thing like that?

A Not that I know of.

Q Yes, sir. Even though it was available you all didn't use it. Is that right, sir?

A Not that I know of.

Q Well, was there a Court Reporter in there? Of all the Court Reporters we have available, did you all have somebody take down word for word the questions and answers and who said them?

A No, sir.

Q You didn't do that, did you?
A No, sir.
Q Capt. Picard made notes and he wrote it out and typed it out. Is that right, sir?
A Correct.
Q Now, where are his notes? Do you know where his [fol. 463] notes are?
A He must have it with him, I guess.
Q You think he's got his longhand notes or has he destroyed those?
A I wouldn't know that.
MR. PICCIONE: Your Honor, I'd like to move for a subpoena duces tecum for the longhand notes of Capt. Picard.
THE COURT: Does the State have any objection?
MR. DeBLANC: No, we have no objection. It doesn't seem to be a proper procedure.
THE COURT: It's my impression that the purpose of this evidence at this time outside of the presence of the jury is to determine whether or not the accused was given and warned of his constitutional rights and I don't think the content of the statement—
MR. PICCIONE: Well, Your Honor, until I see the notes I don't know whether it may not contain something about the warning. I'm interested in the warning.

(Argument off the record.)

THE COURT: You want to issue a subpoena or do it informally?
MR. PICCIONE: We'll do it informally. I could proceed with this witness.
Q (By Mr. Piccione) Mr. Broussard, you took the girl to the hospital, didn't you?
A Correct.
Q Well, you were at the Lady Of Lourdes Hospital while Claude Alexander was at the police station, isn't that right?
A I went to the hospital.
Q And when you came back from the hospital, hadn't [fol. 464] Capt. Picard already finished questioning Claude Alexander?

A No, sir, he wasn't.
Q He hadn't finished?
A He hadn't started.
Q You got there at the beginning.
A Correct.
THE COURT: Here's Capt. Picard.
MR. PICCIONE: Captain, have you got your longhand notes, if you took some longhand notes, when you questioned Claude Alexander?
CAPT. PICARD: No, sir.
MR. PICCIONE: Where is that?
CAPT. PICARD: I threw them away, sir.
MR. PICCIONE: You threw them away. I'd like for the record to show that.
THE COURT: All right, you may retire.

(At this time Capt. Picard retires from the courtroom.)

EXAMINATION (CONT'D.)

BY MR. PICCIONE:

Q And when as you say Capt. Picard read the typewritten statement, did the accused respond in any way? Did Alexander say anything?
A He answered "that's what happened".
Q He answered "that's what happened".
A Correct.
Q And what was his position at that time? Was his head up high or was he leaning down—
THE COURT: Mr. Piccione, I thought we had agreed that we were going to restrict this to the question of whether he was warned or not warned and whether he waived or did not waive—
[fol. 465] MR. PICCIONE: You don't think his physical and mental condition has to do with whether or not he—
THE COURT: Well, if that's the purpose I'll allow you to proceed.
Q (By Mr. Piccione) Well, what was his position?
A He was sitting down.

Q He was sitting down in a chair?
A Correct.
Q Were his eyes opened?
A That's right.
Q And did he sign the statement?
A No, sir, he didn't.
Q He refused to sign the statement.
A Correct.
Q And that impressed you as being an agreement that the statement was true and correct. Is that right, sir?
A Pardon?
Q By him refusing to sign the statement, that impressed you as his agreement that the statement was true and correct.
A No, sir, not to my opinion.
Q Well, in your opinion his not signing it indicated that he didn't agree with it. Isn't that right?
A He didn't say he didn't agree with it.
Q But he didn't sign it.
A He didn't sign it.
Q In fact, he refused to sign it.
A Correct.
Q Did you all then after the statement take him to jail so he could sleep?
A No, sir. After he refused to sign it he left the [fol. 466] room with an officer. He went to the ID room.
Q Took a picture of him then?
A I think so. I'm not sure.
Q Took his clothes?
A I couldn't answer that. I wasn't present.
Q How long was he in that room being questioned?
A I wouldn't know, sir.
Q You don't have any idea?
A You want an approximate answer?
Q Well, give me the best you can.
A I'd say approximately thirty, possibly forty-five minutes.
Q And how long had he been in that room before they started questioning him?

A I couldn't answer. He was already in the room when I entered the room myself.

Q He had been under arrest more than an hour, hadn't he?

A I wouldn't know, sir.

MR. PICCIONE: That's all, Your Honor.

MR. DeBLANC: No further questions. Well, just one more question.

REDIRECT EXAMINATION

BY MR. DeBLANC:

Q About what time was that about when you got through with the examination?

A I'd say approximately 3:00, 3:15; somewheres around that time.

RECROSS EXAMINATION

BY MR. PICCIONE:

Q Mr. Broussard, did you ask Claude Alexander any questions?

[fol. 467] A No, sir, I didn't ask him any questions.

Q How about at the scene when you first arrested him, did you ask him any questions?

A No, sir.

MR. PICCIONE: That's all, Your Honor.

(Witness excused)

MR. DeBLANC: The State will call Officer Anthony Navarre.

Thereupon,

ANTHONY NAVARRE

was recalled as a witness, and having previously been sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. DeBLANC:

Q Will you state your name, please.
A Anthony Navarre.
Q And you are a City Police Officer?
A I am.
Q How long have you been so employed?
A Since November of 1964.
Q Do you know Claude Alexander?
A I do.
Q Do you see him in court?
A I do.
Q Would you point him out to the Court?
A Sitting to the right of Mr. Piccione.
Q Did you have occasion to see him during the early morning hours of September the 4th, 1967 at the police station, Lafayette Police Station?
A I did.
[fol. 468] Q Where was that?
A In Captain—in the detective office.
Q Whose office is that?
A Capt. Shirley Picard.
Q Would you describe that office for the Court? How big was it and what's in there?
A Well, there's a desk, a filing cabinet, also a cabinet with a glass type in front, three chairs and the desk behind the chair and two doors.
Q Two doors?
A Right.
Q Now, who was there besides Alexander on that morning?
A Capt. Picard and Sidney Broussard.
Q About what time of the morning was that?
A I could not guess. I did not look at my watch. I could not say what time it was.
Q Did you hear a conversation between the accused Claude Alexander and Capt. Picard?
A I did.

Q Well, could you state whether or not during that conversation Claude Alexander made a statement of some kind to Capt. Picard?

A He did.

Q Now that statement that you say he made, did you or anyone else in your presence promise Claude Alexander anything to induce him to make the statement you say he made?

MR. PICCIONE: Your Honor, because of the very serious burden that is upon the State under the thinking of Miranda -vs- Arizona, I want to make my objection very clear as to why I object to this question as a leading question. Because the burden is upon the State [fol. 469] to prove it and there is no other witness unbiased, there's no other witness but the accused as against the three policemen present, they ought not to be asked leading questions. The answers are not to be put in their mouth by suggestion and I urgently and sincerely urge this as an objection that goes to the merits of this question, that the facts of this ought to come from the mouth of the witness as to what was done, what was said, who said it, was there an answer, who answered, what did he answer; what was said, not did somebody force him, did somebody threaten him, did someone intimidate him. That requires an interpretation, it requires an opinion. I think it's objectionable.

THE COURT: Well, I think that we are faced with a situation that goes beyond the norm insofar as evidence is concerned in view of the fact that this is a presentation of testimony to determine whether or not certain facets and requirements of the law have been complied with.

Although the Court sees your point very clearly, and I can't say that the Court thinks you're completely wrong, however, I think that the procedure that's being employed by the State is all right. So I'll overrule your objection.

MR. PICCIONE: Your Honor, I'd like to reserve my bill of exception on that, and I make a part of it the question containing a conclusion, asking for an option, as being incompetent and leading and objectionable in view of the issue of the State.

THE COURT: Of course I think a lot of these adjectives are conclusions. The Court will agree with that. But the Court knows of no other way it can draw a conclusion. The only thing that this Court is interested in at this time is whether this statement, regardless of [fol. 470] what its format is, whether it's free and voluntary and whether or not the accused was warned of his constitutional rights as illustrated by Escobeda, Miranda and the other cases.

MR. DeBLANC: Could you read the question back to him, please.

(Thereupon the pending question was read by the Reporter as above recorded.)

THE WITNESS: I did not, nor did anyone else in my presence.

Q (By Mr. DeBlanc) Did you or anyone else in your presence threaten him, menace him or intimidate him in any way to cause him to give the statement he gave?

MR. PICCIONE: Same objection, Your Honor.

THE COURT: Same ruling.

MR. PICCIONE: And same exception making a part of it the question, the objection and the ruling of the Court.

THE COURT: Let the bill be noted.

Q (By Mr. DeBlanc) Did you or anyone else in your presence place him in fear or duress to cause him to give the statement you said he gave?

A I did not, nor did anyone else in my presence.

Q Did you or anyone else in your presence subject him to any treatment designed by effect on body or mind to compel a confession of crime?

A I did not, nor did anyone else in my presence.

Q Now, did you hear what Capt. Picard told him—

A I did.

Q —before he gave the statement to him?

A I did.

[fol. 471] Q What did he tell him?

A He advised him of his rights. He told him that he did not have to say anything and that if he chose to say

anything, whatever he said could and would be held against him. He advised him that he was entitled to a phone call, that he was entitled to Counsel, that if he did not have counsel, counsel could be appointed for him, and he was also told that if he chose to talk at any time during his conversation he could stop.

Q And did he choose to make a phone call?

A He did not.

Q Well, what did he say? Did he say anything to him that he didn't want to make a phone call?

A The telephone was made available to him.

Q How?

A It was picked up by Capt. Picard and placed in front of him. He pushed it away and said he did not wish to make a phone call. He said, "I do not want to make a phone call".

MR. DeBLANC: We tender the witness.

CROSS EXAMINATION

BY MR. PICCIONE:

Q Mr. Navarre, during the recess of the Court, were you among the detectives and officers that were in the elevator together?

A I was.

Q Capt. Picard was there?

A He was.

Q And Sidney Broussard was there?

A He was.

Q And when I came into the elevator, you all stopped talking. You remember that?

[fol. 472] A I was not in the elevator when you came in.

Q You were not there when I came in?

A I was on this floor. Do you mean when you were coming into the courtroom at one o'clock?

Q And there were only detectives and policemen in the elevator. Is that right?

A I was not there.

Q You were not there?

A No, sir.

Q You didn't hear the conversation?
A I did not.
Q You all weren't talking about Miranda -vs- Arizona?
A I was not present.
Q And what it requires to warn a man?
A I was not present.
Q When did you learn the warning that you just described in your words?
A I learned the warning that I just described in my words at Bunkie at the law enforcement institute.
Q And how long ago was that?
A Approximately a year.
Q About a year ago?
A In fact it's over a year because I was at Bunkie during Mardi Gras of last year.
Q And at that time the Miranda case was mentioned?
A It was.
Q You heard an explanation of it?
A We had a complete course on it.
Q You feel that you're pretty familiar with it.
A No, I'm not.
[fol. 473] Q You're not too familiar with it?
A No, sir.
Q Let me ask you a few specific questions. Were you in the room at all times that the questions were being asked?
A I was not.
Q You were not?
A I was not.
Q Well, you said you were there when the warning was given.
A I was.
Q What happened, did you leave then?
A I stayed for a while.
Q How long?
A I stayed to hear Capt. Picard ask him "make another statement".
Q "Make another statement" to him?
A Right.
Q How do you mean, "make another statement"?

A Well, he said something else to him afterwards.
Q Who said something to who?
A Capt. Picard said something else to Claude Alexander.
Q What was his statement?
A He asked him what happened in Girard Park.
Q He asked him what happened in Girard Park?
A Yes.
Q He asked him some other questions too, didn't he? He asked him a lot of questions, didn't he?
A I was not there during the interrogation itself.
Q Oh, you were not there during the interrogation itself?
A I was not.
[fol. 474] Q Then you don't know whether Capt. Picard asked any questions before you heard him give the warning. Is that right?
A I do.
Q You do what?
A I was there before he gave him the warning. He did not ask him any questions.
Q You asked him a few questions?
A I did not.
Q Did Sidney Broussard ask him a few questions?
A He did not, not in my presence.
Q Well, did Capt. Picard ask him a few questions before he gave him the warning?
A He did not.
Q Now when he was offered the telephone, do you remember him saying that—at any time. Do you remember Mr. Alexander saying he wanted to call his mother?
A I do not.
Q Do you remember at one time that he said, "Why don't you take me to jail so I can get some sleep"?
A I do.
Q You remember that?
A I do.
Q Now, can you enlighten us on whether he said that?
A He said that as Auxiliaryman Broussard and I were taking him—were preparing to take him to book him.

Q Now, this was before the statement was given to Capt. Picard. Is that right, sir?
A It was after.
Q That was after?
A Yes, sir.
[fol. 475] Q Now, you feel sure of your memory on that?
A I do.
Q And had you heard him say that same thing before then?
A I had not.
Q Or words to the effect that he was pooped and that he wanted to get some sleep.
A I don't recall that.
Q Did he say that once or more than once?
A Say what?
Q Did he say that he wanted to get some sleep once or more than once?
A I heard it only once.
Q And you were not there then when Capt. Picard said to him, "No, not until you tell me what happened".
A I don't recall.
Q You didn't hear him say that?
A I wasn't there. I don't recall that.
Q Were you there when the statement was typed up?
A I was.
Q Who typed it?
A Capt. Picard type it.
Q Did you see whether he wrote it down in longhand?
A I was there when he began writing it down.
Q Did you notice what he did with the paper that he wrote it down on?
A No.
Q Nobody used a recording machine?
A There was no recording machine.
Q No taping was made of it.
A There was no tape.
[fol. 476] Q There was no recording, right?
A There was no recording.
Q Nobody thought to go get the recording machine.
A No.

Q Nobody thought to call a Court Reporter.

A No.

Q Now, let's be a little more specific. When you said that Capt. Picard said to him in effect, "you can remain silent", "anything you say may and can and will be used against you". You heard him say that?

A I did.

Q And did Claude answer and say "okay, I understand"?

A He did. He said, "You don't need to tell me my rights. I know them".

Q He responded, he spoke up, and he said, "You don't need to tell me my rights. I know them". Is that right?

A Correct.

Q All right. Now, then, when Capt. Picard told him "you are entitled to an attorney, and if you can't afford one one will be furnished to you", you heard him say that?

A I did.

Q And Claude Alexander answered that he understood that and that he didn't want a lawyer.

A He did.

Q Now, you give me his words. What did Claude Alexander say?

A He said, "I understand my rights. You don't need to tell them to me".

Q "I understand my rights. You don't need to tell them to me". Is that right?

[fol. 477] A Correct.

Q And did he say what you indicated a while ago, "I don't need a lawyer", "I don't want a lawyer"? Did he say that?

A I didn't hear him say that.

Q Did you hear him say anything to the effect that he didn't choose to have a lawyer?

A He didn't say anything about a lawyer to the best of my knowledge.

Q Except what you said a while ago.

A Correct.

Q And he said that in answer to the question of Capt. Picard that he had a right to an attorney and if he

couldn't afford one one would be furnished to him. Is that right?

A He said that at the end of the entire statement of his rights.

Q Now, you're saying then that Claude Alexander when warned of his rights, he didn't just sit there mute and say nothing. He just didn't sit there dumb and say nothing. He did speak up.

A Correct.

Q He answered.

A Correct.

Q And he said he knew his rights and he didn't have to be advised of his rights.

A Correct.

Q That's what he said.

A Correct.

Q So if anybody testified that he said nothing when these warnings were given to him or if one man said that he said nothing but nodded his head, that isn't correct, is it?

[fol. 478] A I cannot answer for anyone else.

Q I beg your pardon?

A I cannot answer for anyone else.

Q You can only answer for yourself.

A Correct.

Q And that's your testimony under oath.

A Correct.

Q When you were in the room there with Capt. Picard, was Sidney Broussard there too?

A He was.

Q You had your pistol on?

A I did.

Q And he had his pistol on?

A He did.

Q Did Capt. Picard have his?

A He did.

Q Did any of you all have a billy club handy?

A No one had a club.

Q Did Claude have his handcuffs on?

A (No response).

Q You had brought him in, I believe.

A I brought him into the office, into that particular office.

Q Were the handcuffs still on him?

A They were taken off.

Q They were taken off when?

A I can't recall when they were taken off, but they were taken off before the statement, before he was advised of his rights. I recall that much.

Q Is that right?

[fol. 479] A Correct.

Q Did you all have some coffee while you all were in that conference room?

A We did.

Q Did Claude have any?

A He was offered some.

Q He didn't take any, is that right?

A I can't recall. I was called away several times.

MR. PICCIONE: That's all, Your Honor.

REDIRECT EXAMINATION

BY MR. DeBLANC:

Q When he said, "I understand my rights. You don't have to tell me", where were you sitting?

A I was sitting to his right, next to him. He was right next to me.

Q And where was Capt. Picard sitting?

A He was sitting in front of us behind his desk facing us.

Q And how many times did he say that, "I understand my rights. You don't have to tell me"?

A I recall him saying it once.

Q And is there anything else that happened there before he gave his statement that you haven't told us about?

A I believe Capt. Picard told him once that he didn't have to give a statement. I believe he said that he didn't need a statement from him. He didn't have to give one. I also recall that I was called away from the room several times, but I also recall once that he stated that he

wouldn't sign anything or wouldn't say anything further unless he was given his shoes. I recall that much.

[fol. 480] MR. DeBLANC: Thank you. That's all.

RECROSS EXAMINATION

BY MR. PICCIONE:

Q Was he ever given his shoes?

A I don't recall. He wasn't given his shoes in my presence.

Q He was barefoot at the time.

A Correct.

Q Now, you said that you were sitting in a chair right to the right of Claude. You mean your chair was right beside his like that?

A Correct.

Q And he was there and you were on his right?

A Correct.

Q And Sidney Broussard was right on his left. Is that right?

A Correct.

Q So you had an officer like that gentlemen there and he was here and they had another officer like me here and you had a small table here and you had another officer over there. Is that right?

A Not a table; a desk.

Q You had him surrounded by three officers. Is that right?

A Correct.

Q Was anybody else in the room?

A No one else was present.

Q His mother wasn't there?

A She was not.

Q His father wasn't there?

[fol. 481] A No, sir.

Q His lawyer wasn't there?

A Correct.

Q He didn't have a lawyer.

A I did not know.

Q Officer Navarre, did you put your arm on Claude one time there?

A I did not.
Q You didn't pat him on the shoulder?
A I did not.
Q You didn't pat him on the shoulder and say, "Go ahead and tell him about it"?
A I did not.
Q You didn't do that?
A I did not.
Q You didn't tell him that was the best thing for him to do?
A I did not.
Q You don't recall doing that?
A I did not do that.
Q In fact, you didn't talk to him at all, did you?
A I did not have any conversation at all while he was in the office.
Q You just listened.
A Correct.
MR. PICCIONE: That's all, Your Honor.
MR. DeBLANC: No more questions, Your Honor.

(Witness excused)

THE COURT: Off the record.

(Informal discussion off the record.)

[fol. 482] MR. DeBLANC: This is our evidence insofar as the voluntary nature of the confession or inculpatory statement and as well as the showing that his constitutionel rights have been complied with.
THE COURT: All right. Does the defense have any evidence?
MR. PICCIONE: Well, we call the only witness we have, Your Honor, and that's the accused.
THE COURT: All right.

EXAMINATION ON VALIDITY OF STATEMENT

Thereupon,

CLAUDE ALEXANDER

the Defendant herein, was recalled as a witness, and having previously been sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. PICCIONE:

Q Your name is Claude Alexander?
A Yes, sir.
Q You're the Defendant in this case?
A Yes, sir.
Q You remember being arrested on September 4, 1967?
A Yes, sir.
Q Were you taken to jail—at least were you taken to the police station?
A Yes, sir.
Q Is that the one over here on Pierce Street?
A I think so.
Q Actually who took you there?
A I don't know the officer's name.
[fol. 483] Q You don't know the officer's name?
A I don't.
Q Now before you went up there, had you been injured in any way?
A Yes, sir.
Q How?
A Well, at least, the officer that picked me up in the park, he hit me.
Q He hit you with what?
A It either have to be his gun or his club or something.
Q Did you at any time see his gun?
A At least I saw him when he pulled it out.
Q Did you ever see his gun on the pavement?
A No, sir.
Q You don't remember that?
A No, sir.
Q Besides the officer hitting you with the gun, did you have any other fight with him, any other exchange with him?
A Yes, sir.
Q What was that?
A After I hit him I started running. I mean, when I stopped, he dove on me.
Q Did he hit you?

A We started tussling.
Q Now, were you all standing up or on the ground?
A We was on the ground.
Q What parts of your body hit the ground?
A My back, chest and my face hit it a couple of times.
Q Your face hit the ground a couple of times?
A Yes, sir.
[fol. 484] Q That made you feel real good?
THE COURT: Off the record.

(Informal discussion off the record.)

Q (By Mr. Piccione) Did anything else happen to you physically?
A Just when we got up, after we got through tussling, he handcuffed me from the back.
Q He handcuffed you behind your back?
A Yes, sir.
Q The two hands behind your back?
A Yes, sir.
Q Now, how long did those handcuffs stay on your two hands?
A Until I got in the office.
Q Were they taken off when you got to the office?
A Not just then.
Q Were they taken off before or after the interrogation?
A They was taken off during.
Q During the interrogation?
A Yes, sir.
Q During the time they questioned you?
A Yes, sir.
Q In the first part of it did you have your handcuffs on?
A Yes, sir.
Q Now, did they offer you to use a telephone?
A No, sir. I asked them.
Q You asked them?
A Yes, sir.
Q When you asked them, did you have the handcuffs on or off?
[fol. 485] A I still had them on.

Q Behind your back?
A Yes, sir.
Q And when you asked to use the phone, did you specifically say who you wanted to call?
A Yes, sir. I told them I wanted to call my mother.
Q How many times did you tell them that?
A Well, I asked them about twice.
Q Who did you say that to?
A Capt. Shirley Picard.
Q Who else was there?
A Well, at the time I don't believe they had anybody else in the room.
Q And did he let you use the telephone?
A No, sir.
Q He says he put the phone in front of you and you didn't care to use it. Is that true?
A No, sir.
Q Claude, when you got into that room did Capt. Picard talk to you?
A Yes, he did.
Q Now at the time he started talking to you, how did you feel physically and mentally?
A Well, after we got through—after the man had hit me on my eye with the gun, at least with something, and after we got through tussling in the park, I mean, I wasn't feeling good.
Q How did you feel?
A Well, I was sort of dizzy.
Q Dizzy?
A Yes, sir.
[fol. 486] Q Did you at any time say anything to the officers about that?
A Yes, sir.
Q What did you tell them?
A I told them why don't they take me to jail or let me go home, you know, get some sleep.
Q Did you feel sleepy?
A Yes, sir.
Q Did they take you to jail or let you get any sleep?
A No, sir. They took me to the police station.

Q And what kind of—did you sit down or lie down or what?

A I was sitting down.

Q You were sitting down?

A Yes, sir.

Q And were there other officers in the room when the conversation started?

A No, sir, not at the time.

Q Who was there?

A Just me and Shirley Picard.

Q Was Sidney Broussard there at any time?

A I think he came in afterwards.

Q Afterwards?

A Yes, sir.

Q After what?

A After Shirley Picard got through questioning me.

Q After he got through questioning you?

A Yes, sir.

Q When he began to question you, was Sidney Broussard there?

[fol. 487] A No, sir.

Q Was Officer Navarre there when he started to question you?

A He was out—I guess he was in another office because he wasn't there—I saw him when they brought me in.

Q Now, Claude, tell the Court in your own words what did Capt. Picard tell you.

A Well, after I asked him to use the phone he told me not until, you know—at least not until I tell him what happened in the park.

Q Was that before he said anything further—was that before he questioned you or after?

A Before he questioned me.

Q Before he questioned you?

A Yes, sir.

Q All right. Repeat that now. How did he say that?

A I asked him to use the telephone and he said not until I tell—"not until you tell me what happened in the park".

Q And when you made the remark that you wanted to get some sleep, did they respond to that? Did they say anything to that?

A Yes, sir. At least I did get sort of angry and I stood up. I said, "Why don't you take me to jail, I'm sleepy". Then the other officer opened the door and he waved them not to come in.

Q And who was that other officer?

A I don't know the other officer, but Shirley Picard waved them not to come in.

Q Capt. Picard waved the other officers not to come in?

A Yes, sir.

[fol. 488] Q Do you know the name of any other officer who may have heard you say that?

A No, sir.

Q The ones that were trying to come in there.

A Maybe they would have heard me, but I don't know.

Q They might have heard you.

A Yes, sir.

Q Do you know his name?

A No, sir.

Q All right. Now, tell the Court—Capt. Picard said he warned you. Tell the Court what he said to you.

A Well, I don't recall, you know, him telling me too much. He just asked me, started asking me what happened in the park.

Q He started asking you what happened in the park?

A Yes, sir.

Q Now, he says that he warned you about certain things. Now, what do you know about that? What did he warn you about, if anything?

A Well, if he did tell me anything I didn't hear it.

Q Did you answer him in any way?

A No, sir.

Q Did you tell him, "I understand that I can keep quiet. I don't have to say anything. And if I say something it may be used and can be used against me". Did you tell him that?

A No, sir.

Q Did you say to him, "I don't want a lawyer. I don't have a lawyer. I can't afford one and you can't

hire one for me. I don't want one". Did you tell him that?

A No, sir.

[fol. 489] Q Did you tell him that you understood that and therefore you would do without one. Did you ever do that?

A No, sir.

Q When he gave you the so-called warnings, did you answer him in any way?

A No, sir.

Q Did you understand what he was talking about?

A Like I told you, I was kind of dizzy and I was just about sleeping, you know.

Q Is that as best you can remember?

A Yes, sir.

Q Is that how you understood it?

A Yes, sir.

Q Did you understand what he was talking about?

A Well, not exactly.

Q Did that ever happen to you before?

A No, sir.

Q Did you ever have a similar experience?

A No, sir.

Q Now, did Capt. Picard write some things down in longhand?

A Yes, he did.

Q Did he ask you some questions?

A Yes, sir, he did.

Q Were his questions of the sort of "what happened", "what occurred", "what took place", or were they the sort of—or were they leading questions of the nature of "weren't you in the park", "didn't you rape the girl", and so forth?

MR. DeBLANC: I understand the purpose of this examination now is to determine the voluntary nature of it [fol. 490] and whether he's been advised of his constitutional rights. Now, we have not asked—

MR. PICCIONE: I will agree with that.

THE COURT: All right.

Q (By Mr. Piccione) Now, did he type that statement up?

A Yes, sir.
Q Did he do it that same morning?
A Yes, sir.
Q He had the typewriter right there in the office?
A Yes, sir.
Q You saw him type it up?
A Yes, sir.
Q Then did he hand it to you, the statement, or did he read it to you?
A He handed it to me.
Q Did he read it to you?
A No, sir.
Q Now, did you look at the statement?
A I glanced at it.
Q Did you take time to read every word of it?
A Well, I just read a few words.
Q You read some?
A Yes, sir. And they had something that I didn't say in the statement that he had typed.
Q They had something on there you didn't say?
A Yes, sir.
Q And when you saw that what did you do?
A He asked me to sign it and I stood up and I threw it down, threw the paper down, and I said, "I ain't signing something I didn't say".
[fol. 491] Q Q Did you sign it?
A No, sir.
Q Why didn't you sign it?
A Because I didn't tell him that.
Q Did they then take you to jail where you could sleep?
A No, sir.
Q You all then left the room. Is that right?
A Yes, sir.
MR. PICCIONE: That's all, Your Honor.

CROSS EXAMINATION

BY MR. DeBLANC:

Q As I understand it, he typed this statement up—from where did he get that information that he typed this statement up from?

A Well, most of that he was saying it himself.
Q He was what?
A Everything that he was typing down, I mean, he was just about saying it himself.
Q Well, was it something that he had written down with a pencil?
A Well, he'd ask me some questions sort of, you know, like, "did you rape that girl in the park". I told him no. I just came out and I told him no. Then he started writing. He kept on asking me questions and then I didn't say nothing else after that.
Q Well, he would ask you questions and then he would write something down.
A Yes, sir.
Q And then he kept on asking you questions and then he'd write something down, right?
[fol. 492] A Yes, sir.
Q And then after that he typed it up on a typewriter?
A Yes, sir, after he got through.
Q Were you there when he typed it on a typewriter?
A Yes, sir.
Q And then he took it and handed it to you.
A After he got through.
Q And then you read it and there's something in there you saw that you didn't say. Is that right?
A Yes, sir.
Q Well, you said you read a few words. About how many sentences did you read?
About four or five.
Q Four or five sentences?
A Yes, sir. I read just about half of it.
Q Oh, you read just about half of it?
A Yes, sir.
Q And then you stopped?
A Yes, sir.
Q Right in the middle of it?
A He asked me to sign it.
Q Yes, but then you were looking at it, right?
A Yes.
Q And there was something in there that you didn't want to—there was something in there that you read that you felt that you didn't say.

A Well, they had a lot of things in there that I didn't say.

Q I thought you said that there was something in there you didn't say.

[fol. 493] A Well, if I did say it it was a mistake; but I say "if".

Q You might have said it but you didn't mean to say it.

A That's right.

Q So some of the things that you read in there you said you—now don't tell me what you said—

THE COURT: This is something to be determined if and when this Court allows reference to be made to this statement. You're going into the contents of it now. Does this have something to do with the free and voluntary nature of it?

MR. DeBLANC: Yes.

THE COURT: Well, I don't know that I see it, but go ahead.

Q (By Mr. DeBlanc) You read the statement or half of it, right?

A Yes, sir.

Q Now what I meant to say was, when you read those words in the statement you understood what they meant, most of them.

A Most of them.

Q You just didn't agree with—as I understood it, you read half of the statement and then you stopped, right?

A Yes.

Q And then there's some of the things that you brought to his attention that while you may have said you didn't mean to say them.

A No, sir, I didn't say that.

Q Huh?

A I didn't say that. I said he was telling me some questions—I mean, he was asking me some questions.

Q Yes, but don't say what he said.

Q I ain't going to say what he said, but he was asking [fol. 494] me some questions and, you know, every once in a while he started writing down. And then after he got through typing it out he handed it to me and I read

half of it, I could say about half of it, and then when I got through I looked at him and I just stopped and I threw the pencil and the paper back to him and said "I didn't say it".

Q Some things in there—

A Most of it.

Q Well, now, why didn't you read the rest of the statement?

A Well, I got kind—I got angry because I didn't say what he had down.

Q Oh, I see. And then—so then you said you wouldn't sign the statement. But you don't know whether the other part of the statement was something you said or not. Is that right?

A Well, I read the other part.

Q Oh, you read the other part.

A Not that night.

Q When did you read that?

A Well, I read the statement.

Q Later on?

A Yes.

Q On another occasion or a little bit later that night?

A On another occasion.

Q Who gave it to you on another occasion?

A Well, my lawyer had one.

Q Did you understand what you read in the rest of the statement?

A Did I understand?

Q Yes, understand it.

[fol. 495] A Well, I didn't say that either.

Q Well, I'm asking you, did you understand what was down there?

A Did I understand what they had on the paper?

Q Yes.

A Yes, I understood what they had on the paper.

Q Now, before he wrote that statement down, didn't you all have a little conversation about something or other?

A Oh, he went and get some coffee. He saw somebody with some coffee.

Q Did you drink some coffee with them?

A No, sir.
Q They asked you to drink some, didn't they?
A That's right.
Q And you said you didn't want any coffee, huh?
A I said I didn't want any coffee. Like he was trying to bribe me or something, asking me if I wanted a cup of coffee.
Q Didn't you think maybe they were being nice to you to ask you if you wanted to join them in coffee?
A They couldn't be nice, I mean, if they asked me if I did this or if I did that.
Q But you said no, you didn't want any coffee.
A That's right.
Q Now, there was a phone there in that room, right?
A That's right.
Q And didn't he say to you, "Would you like to use the phone"?
A No, sir, I asked him.
Q Oh, you asked him?
A Yes, sir.
[fol. 496] Q Did he say okay?
A No, sir, not until—he told me, he said, "Not until you tell me what happened in the park".
Q Oh, not until then.
A That's right.
Q Well, who did you want to call?
A Well, my mother.
Q Did you finally call your mother?
A Well, they didn't even let me use the phone.
Q You never did call your mother?
A I never did.
Q I want to ask you if you can understand this when I ask you this question, and I'm just asking if you understand these words, you see what I mean. "You have the right to remain silent". You understand what that means?
A Yes, I do.
Q Well, what does that mean?
A Well, you have a right not to talk.
Q All right. "Now, anything that you say can and will be used against you in a court of law". What does that mean?

A I didn't hear that before.

Q But, I mean, what would that mean to you if I told it to you, "Anything that you say can and will be used against you in a court of law".

A I don't know.

Q You don't know what that means?

A I don't think so, unless I think about it.

Q You know what a court of law is?

THE COURT: Can you think about it maybe?

THE WITNESS: Yes, I could.

[fol. 497] Q (By Mr. DeBlanc) Well, think about it.

A Will you repeat that?

Q Why don't you read it yourself. Read it out loud.

A "You have the right to remain silent. Anything you say can and will be used against you in a court of law".

Q All right. Now, you understand what that means?

A It means anything that you say against yourself, that it can be used against you in court.

Q I mean, you understand all those simple words, don't you?

A Yes.

Q Now, what about the third thing there? Read that.

A "You have the right to talk to a lawyer and have him present with you while you are being questioned".

Q Well, now, you understand what that means, don't you?

A Yes. "If you cannot afford to hire a lawyer, one will be appointed to represent you before any questioning if you wish one".

Q Well, now, you understand those simple words, don't you?

A Yes, sir, I do.

MR. DeBLANC: We tender the witness.

REDIRECT EXAMINATION

BY MR. PICCIONE:

Q Claude, when you and Capt. Picard had the conversation before the statement came up, did he at any time say to you that if you couldn't afford to employ a

lawyer, in other words if you didn't have any money, if you couldn't afford to hire a lawyer that one would be appointed to you and furnished to you and that you had a right to have that lawyer present before you answered any questions?

[fol. 498] A No, sir.

Q He didn't say nothing like that. Is that right?

A No, sir, he didn't say it.

Q And if he did say that, you didn't hear it?

A Well, that's right.

Q Or you didn't understand it.

A Well, he—if he did say it I didn't hear it.

Q And if he did say it, did you ever give up your right to have a lawyer?

A No, sir.

Q Why did you want to call your mother?

A Well, I mean, at least, I was in trouble.

Q You were in some trouble.

A Yes, sir.

Q You wanted to tell your mother about it?

A Yes, sir.

Q You had something in mind, that maybe your mother could help you?

A Yes, sir.

Q Did you at that time even know a lawyer?

A No, sir.

Q And in fact you had no lawyer. Is that right?

A No, sir.

MR. PICCIONE: That's it, Your Honor.

MR. DeBLANC: That's all.

(Witness excused)

THE COURT: Gentlemen, in connection with this testimony outside of the presence of the jury which we have just completed having to do with the legality under our law of the alleged statement given by the accused, let me just make this statement for clarity. Insofar as [fol. 499] confessions generally are concerned, under the Miranda case which we've been talking about which is the last expression of the United States Supreme Court on the subject, I think I indicated earlier that by no

stretch of the imagination did Miranda indicate that confessions were no longer legal. Miranda very definitely states that confessions remain a proper element of law enforcement and that any statement given freely and voluntarily without compelling inferences is admissible. I think that's a basic statement as elicitated by Miranda.

Now insofar as this particular statement in this case, the Court concludes rather easily, certainly there was no evidence to indicate it to the contrary in my opinion, that there were any promises or threats or menaces or menacing statements, intimidations or any treatment accorded the accused to compel him to make the confession.

Now Mr. Alexander, the accused, indicated something that he was offered coffee and a cigarette and he presumed that to be a bribe. I think that would be stretching the point to a ridiculous nature, if this Court considered that that was a threat or a promise.

I think the United States Supreme Court recognized that their language indicates in the Miranda case that, they don't use a percentage, but their conclusion is that practically all of the confessions are gotten under a police atmosphere, a police station, interrogation room courthouse, any such building or room. And of course the majority opinion in Miranda was a five/four decision.

The intention back of Miranda was to eliminate what existed and may still exist and probably does exist to some extent as to some of the treatment that people who [fol. 500] were accosted or arrested were given by law enforcement officers in some instances. I don't think we can kid ourselves and say that these situations didn't exist. And certainly for that reason you can see the logic and the equity of the decision in Miranda insofar as the availability and the admissibility of confessions which were given under duress and under abnormal conditions and without a person being advised of their constitutional rights, particularly under the Fifth Amendment of the United States Constitution.

Now in this case Miranda does not indicate any specific method in which a waiver of rights may be given by an accused. They indicate a guideline as to warnings. In other words, Miranda says this, that an accused must be,

and of course I think Miranda presupposes also, I think it's clear by reading the decision that we're talking about a preinterrogation situation, an interrogation instituted and inaugurated by any law enforcement agency or officer. Miranda anticipates interrogation. Certainly by reading Miranda it does not by any means in my opinion indicate that police officers cannot interrogate one accused of crime or apprehended or in the custody of the officers.

They say that, Mr. Policeman, if you're going to interrogate this man you've got to warn him of his constitutional rights and that is to remain silent, he has the right to remain silent, he doesn't have to speak, but if he does speak, if he does indicate, that if he does, anything he says may be used against him in a court of law, that language or similar language, that he is entitled to an attorney to be present and that if he can't afford an attorney one will be appointed for him. Now that's a guideline that they indicate.

[fol. 501] Now in this case there was testimony and it's not—of course I'm a trier of the facts on this case to determine the legality of this thing. It's a difficult thing for a Judge to do. But it's difficult for me to say that these three police officers were lying. I can't say that. I think that all of us know that the Miranda and the Escobeda case has been on everybody's lips for the last—when was Escobeda, 1963, whatever it was, '62, '63—well, since that time and with the amplification by Miranda, those cases and their contents have been practically a byword in legal circles and in police circles. You can read the paper every day where you see the police departments are being made to comprehend and understand the requirements of the Miranda and Escobeda case.

So as I say, I don't think you have any police officer today who doesn't have some knowledge of the requirements of that case. I'm satisfied that the police officers in this instance, Capt. Picard, and as testified to by the other two officers, with some little variations I might say which are not at all unusual. I don't think—just like you can get three people that viewed an accident and you might

get three completely different versions as to the exact particularities of it.

I'm satisfied generally that the warning as required by Miranda was given and I'm going to further rule that this accused knew his rights and that he waived his rights in the absence of any particular direction on the part of Miranda which it does not include as to what is a waiver of rights—as I say, Miranda uses the word waiver, but Miranda does not say that it will be waived in such and such and such and such and such a way.

I'm satisfied that there has been a compliance with the [fol. 502] mandate of Miranda and I will consequently rule that the statement, and I don't know its format as I said as to whether its—it's been referred to as an oral statement, unsigned. But whatever it may be, I'm going to rule that it was legally gotten, that it was free and voluntary and that the accused—and that the requirements of Miranda were conformed to in this interrogation.

MR. PICCIONE: Your Honor, before reserving a bill, may I call to the Court's attention respectfully forty-nine and fifty-one in Miranda, Paragraphs 49-51, concerning waiver, Your Honor. If the interrogation continues without the presence of an attorney and a statement is taken, a heavy burden rests on the government, to demonstrate that the defendant—

THE COURT: Where's that, Mr. Piccione?

MR. PICCIONE: Your Honor, that's on page 1628 of the Volume—

THE COURT: All right, I have it.

MR. PICCIONE: A heavy burden rests on the government to demonstrate that the defendant—the government has the burden of proving that the defendant—

THE COURT: I've really considered all of that, Mr. Piccione, and there's another statement on the next page under fifty-five and fifty-seven. The Court is completely familiar with it. As I say, I made the decision and I think it's correct.

I think that Miranda must be approached, No. 1, equity, fairness and justice, but also the practical aspects of it and I don't think there's any question in my mind

that this is a proper situation and that Miranda has been complied with.

MR. PICCIONE: I wish to reserve a bill to the ruling [fol. 503] of the Court which I understand to have the effect of permitting the statement before the jury to go into an introduction of the confession or to define a confession for such weight as it may carry, we accept and reserve a bill of exceptions and make a part of it the evidence in its entirety that was taken out of the presence of the jury on the manner in which the statement was taken, the manner in which the accused was or to what degree he was warned of his rights, that entire record, up to this point, and make a part of it the ruling of the Court, the words of the Judge, and reserving our rights of course to delineate in briefs the basis of law of our objection.

THE COURT: All right, let that be noted.

Off the record.

(Informal discussion off the record.)

MR. PICCIONE: Add to my bill of exceptions the objections that I previously made in the opening of this record to the effect that the State had rested its case and that this effort to bring in the confession now comes too late.

MR. DeBLANC: First of all the State has given a copy of this statement which is oral but reduced to writing, but the State did give a copy under a prayer for over many weeks ago which we felt was necessary and appropriate. Then after that we also gave notice to him without the jury knowing it that we were intending to use this, so we have laid our foundation insofar as the requirements of law is concerned. But we're confronted with the situation where had we attempted to introduce this in the presence of the jury which we felt we could have done and had we not succeeded for some reason or other in proving completely to the satisfaction of the Court the admissibility of the evidence then we would have had a situation where we might have had reversible error so [fol. 504] that's why we asked that the jury be retired so that we could prove the voluntary nature of the con-

fession out of the presence of the jury and again prove it in the presence of the jury for the reason that they should be able to determine the weight to be given this confession.

THE COURT: Off the record.

(Informal discussion off the record.)

THE COURT: Let's take a short recess.

(Thereupon a short recess was taken, after which the following proceedings were had:)

THE COURT: Let's bring the jury back in, please.

(At this time the jury returned to the courtroom.)

THE COURT: Do you wish to waive the polling of the jury?

MR. PICCIONE: Yes, Your Honor.

MR. DeBLANC: Yes, Your Honor.

THE COURT: The accused was on the stand. The State may proceed.

Thereupon,

CLAUDE ALEXANDER

the Defendant herein, resumed the stand and testified further as follows:

CROSS EXAMINATION (CONT'D.)

* * * *

[fol. 524] Q (By Mr. DeBlanc) Now, you said that you told your lawyer what you had done that night and you told someone else. Who was that?

A I told my lawyer and two persons.

Q Who else you told?

A Well, Shirley Picard and—

Q Where did you tell Shirley Picard—you're talking about the police officer?

A Yes, sir.

Q Where did you tell Shirley Picard what you did that night?

A In his office.

Q Was anyone there when you told him that? Who was there when you gave this statement, told Capt. Picard what you did?

A Well, at the time they had nobody there.

Q Nobody else?

A No.

Q Did someone come in while you were talking to him?

A After we got through talking.

Q Who came in?

A Sidney Broussard.

Q Anyone else?

A No, sir.

Q Do you know Officer Navarre?

A Yes, sir.

Q Did he come around there?

A Well, I saw him when I walked in the police station.

Q Now, you gave this statement in what building?

A Uh, let me see.

[fol. 525] Q Is that the police station?

A Yes, sir, that's it.

Q In what room of the police station, do you know?

A Well, I know it was in a room.

Q What was in that room, do you remember?

A A desk and a couple of chairs.

Q Was there a couple of doors that went out of that room?

A I think two.

Q Two doors?

A Yes.

Q What time was that about?

A It was about twenty to two.

Q Twenty to two?

A Yes, sir.

Q How were you dressed?

A I had a white T shirt and a brown pair of pants and blue tennis.

Q Was that the same clothes you had on when you went to the Yarc Club?

A Yes, sir.

Q When you talked to him were you sitting down or standing up?

A I was sort of laying down.

Q Laying down?

A Yes, sir.

Q You were laying down on what?

A Well, at least, I was trying to lay down because I was tired and I was trying to get some sleep.

Q You were sitting on a chair, though, weren't you?

A Yes, sir.

[fol. 526] Q You were slouching in a chair sort of?

A Yes, sir.

Q Well, you're on a chair now. How were you sitting? Show the jury how you were sitting.

A Well—

Q You can't sit in that chair like that?

A Well, I could try.

Q Okay, try.

A I was sort of like this (indicating).

Q Okay. How did you give him that statement? He asked you questions and you answered them or what?

A Well, not exactly asked me questions.

Q Exactly what did he tell you?

A At least he tried to put words in my mouth.

Q Oh, I see. How long did this conversation last between you and him?

A Well, we ain't had no conversation, no kind of a conversation.

Q I mean, how long did this statement you have with him last?

A Well, about two thirty.

Q Until about two thirty?

A Yes.

Q Well, when he was talking to you, did he write anything down on a piece of paper?

A He did.

Q And did you see him type anything on a typewriter?

A Yes.

MR. PICCIONE: Your Honor, for the sake of the record, I would like to make it clear that it is clear that

[fol. 527] that I have before the Court objected to what we're now getting into to the questioning under his condition and the statements that we're now getting into on constitutional grounds, and we've reserved our bill of exceptions on any of this as being legally admissible in this trial.

THE COURT: And the Court has overruled your objection.

MR. PICCIONE: And we reserved our bill of exceptions.

Q (By Mr. DeBlanc) Then he would write. Where was he getting the information that he was putting on this typewriter, do you know?

A From a sheet of paper.

Q From the paper he wrote on?

A Yes, sir.

Q Now while you were talking to him like that, did somebody come in and bring coffee to people in there?

A Somebody did come bring some coffee.

Q Did they ask you if you wanted a cup of coffee?

A Yes, sir.

Q Did you drink one?

A No, sir.

Q You didn't want one?

A No, sir.

Q Did they offer you any cigarettes?

A Yes, sir.

Q Do you smoke?

A Yes, sir.

Q They offered you to have a smoke with them?

A Yes, sir.

Q Did you take any?

A No, sir.

[fol. 528] Q Now during this entire conversation you were seated in a chair, is that right, slouched in the chair?

A Yes, sir.

Q About what time had you gotten up that morning?

A Which morning?

Q The morning of, you know, the night before?

A The Sunday?

Q Yes.
A Well, about seven or eight o'clock that morning.
Q Now after Shirley Picard wrote this on a typewriter, did he show it to you?
A Yes, sir.
Q Did you read it?
A I read half of it.
Q You read half of it?
A Yes, sir.
Q Did you understand what was on there?
A Yes, sir.
Q Would you recognize this if you saw it, if I read it out to you what was said on this thing?
A Yes, sir, I would.
Q Did you tell him, "On or about nine p.m. or nine thirty p.m. last night I left my house"?
A Yes, sir.
Q Did you tell him, "I met Allen Breaux on Lillian Road"?
A No, sir.
Q Did you tell him, "We decided to go to the country club which is across the street from Betty's Diner on Gilman Road"?
A No, sir.
Q About how much of this, the part that you read, [fol. 529] was stuff that you told him and how much was not?
A Well, let me see—I didn't tell him exactly, you know, what you're telling me now.
Q Oh, I see. You could have told him the same thing in different words?
A I ain't told him the same thing in different words either. I told him something else.
Q You didn't tell him what I just said?
A No, sir.
Q Did you say, "Allen Breaux asked me if I wanted to go with him and break in a place at Girard Park where he works"?
A No, sir.
Q Did you tell him, "I told him okay"?
A No, sir.

Q Did you tell him, "We walked back to Allen Breaux's house between Lillian Road and Pierce Street"?

A No, sir, I didn't.

Q Did you tell him, "Allen Breaux took a crowbar from inside a 1956, '57 or '58 light greenish and white Oldsmobile and put the crowbar between his belt"?

A No, sir, I didn't.

Q Did you tell him, "Allen Breaux and I walked to Girard Park and when we got in the park on a road by the lake we saw a white boy and a white girl walking on the road by the ridge"?

A No, sir, I didn't.

Q Did you say, "Allen Breaux said, 'You want to go and get the boy and the girl', and I said, 'Okay' "?

A No, sir, I didn't say that either.

Q Did you say, "We walked up to the white boy and the white girl and the white boy told Allen Breaux if he [fol. 530] wanted his money he could have it"?

A No, sir, I didn't say that.

Q Did you say, "Allen Breaux took the money and hit the white boy in the face and the white boy fell down on the ground saying he couldn't see"?

A No, sir, I didn't say that either.

Q Did you say, "Allen Breaux told the white girl if she wouldn't do right he would have to shoot—he would shoot both of them"?

A No, sir.

Q Did you say, "The white girl told us if—she would give us more money if we would leave them alone"?

A No, sir.

Q Did you say, "The white boy said, 'Linda, do right and they are going to leave us alone' "?

A No, sir, I didn't say that.

Q Did you say, "Allen Breaux jumped on the white girl and threw her on the ground and pulled her dress off and got on top of her and went with her"?

A No, sir, Shirley Picard said that.

Q Did you say, "Allen Breaux stayed on top of the white girl for about forty or forty-five minutes"?

A No, sir.

Q Did you say, "I was about to get on top of the white girl when the cops came"?

A No, sir.

Q Did you say, "Allen Breaux ran down the ditch and I went in a culvert under the bridge"?

A No, sir.

Q Did you say, "The police shot at me and I told him [fol. 531] I was coming out"?

A No, sir, I didn't say that.

Q Did you say, "I came out and broke out running and the police caught me about two or three blocks away"?

A No, sir.

Q So what I read to you then you deny making that statement to Shirley Picard at the police station at approximately two thirty o'clock in the morning on September the 4th, 1967?

A That's right, I deny it.

Q Now, can you tell the jury what you told him if this is not it?

A Yes, I could. I told Capt. Shirley Picard that, at least, that I left—let me see. At least I started from about three thirty, four o'clock. I started about—I told him that when I left from my house I went to Truman Palace Cafe and that when I got there I met—at least I met Frances and we stayed there a few minutes and we left to go to her house—I mean, to my house.

Well, you know, he asked me my name and I gave him my name, he asked me my address and all that.

Q Go ahead with the story. Tell us what you told him.

A He asked me my name, my address, and then that's when he broke in. He said, "What happened in Girard Park"?

Q What did you tell him?

A I didn't tell him nothing.

Q You didn't tell him a thing?

A No, sir, not to—not when he got to that part there.

Q Well, where did he get all this thing, this thing that he told you and you didn't give him any information—

A Those are words that he tried to put in my mouth. [fol. 532] He wanted me to say that, but I didn't. That's why when he give the paper to me and I read it, he asked

me to sign it, and I just threw the pencil and the paper back to him and told him I didn't say that.

Q Well, then, there must have been something you said. Didn't you say a while ago that there was something that you said that was correct in there?

A Yes, sir.

Q Okay. Now, what is it in there that's correct?

A I told him—

Q You want to look at it?

A I could look at it.

Q Look at it and see which part of this statement you told him and which you didn't tell him.

A I told him that I left my house about nine o'clock, nine thirty, and I left to go to Carencro.

Q What else you told him?

A I told him my name, my address, you know, where I live at and all that.

Q Well, then, you must have told him something else, didn't you?

A No, we didn't talk that much.

Q You just told him about nine, nine thirty you left your house to go to Carencro?

A No, sir. I told him my name, my address and where, you know—I told him about when I met the girl and all that and that's when I told him I was sleepy, if he could bring me to jail or just send me to my house so I could get me some sleep because I was tired and that was it.

Q Well, did you tell Capt. Picard what happened to [fol. 533] you after nine thirty?

A Well, he asked me and that's as far as I got; that's as far as I got. Then he started asking me about what happened in the park and all that.

Q Well, in the meantime while you were telling him that, that's all you told him?

A That's as far as he would let me get.

Q And all this information that's on there was something that you did not tell him.

A No, I didn't tell him that but he tried to—.

Q Now, did he ask you to sign this statement?

A Yes.

Q And what did you tell him?

A At least he let me read it first, and he told me, he asked me if I wanted to sign it. And when I got halfway I threw it back to him, I threw him the paper and the pencil back to him, and I stood up and I told him that I wasn't signing it because I didn't say it.

Q Well, did you mention to him why?

A Yes, sir, because I didn't say what they had on this sheet of paper.

Q Did you mention to him anything about wanting to get your shoes back?

A Yes, sir, I did. I asked him where my shoes was.

Q Did you make that a condition? Did you tell him you would sign it if you would get your shoes back?

A No, sir. I asked him that when he was through questioning me.

MR. DeBLANC: Now, the State announces that it's going to ask the witness this question one more time with [fol. 534] the intention to impeach the witness' testimony.

Q (By Mr. DeBlanc) I'm asking you now, Claude Alexander, did you or did you not make the statement that I just read out to you to Capt. Shirley Picard on September the 4th, 1967, about two thirty o'clock a.m. in the Lafayette City Police office in the City of Lafayette?

A Not that statement there, but I made, you know—

Q That statement there.

A Not this one there.

Q You did not make that statement?

A I did not.

MR. DeBLANC: The State announces that it is going to impeach the testimony of the witness by the testimony of Shirley Picard and other officers.

We tender the witness.

MR. PICCIONE: Your Honor, is it necessary at this time that I proceed directly on this question of the statement or can I do that after the officers are heard?

THE COURT: Let me see you both, gentlemen.

(Thereupon counsel for the respective parties approached the Bench and conferred with the Court out of the hearing of the Reporter.)

REDIRECT EXAMINATION

BY MR. PICCIONE:

Q Mr. Alexander, on that morning that you were arrested, had you been hit on the head?

A Yes, sir.

Q And is that that blackeye that was shown in that photograph?

A Yes, sir.

[fol. 535] Q And how did you feel as a result of that?

A Well, I felt kind of dizzy.

Q Had you had any sleep that night so far?

A No, sir.

Q How did you feel as to sleeping?

A Well, like I said, I was just about sleeping when he was questioning me.

Q Before you were questioned on this occasion by Capt. Shirley Picard, did you say anything to him about wanting to get some sleep?

A Yes, sir.

Q What did you say?

A I said, "Take me to jail or take me home so I can get me some sleep".

Q And what did he answer?

A "Not until, you know, you tell me what happened in the park".

Q Not until who tells him what happened in the park?

A Not until I tell him what happened in the park.

Q Did you make any other request such as to use the telephone?

A Yes, sir.

Q What request did you make?

A I asked him to use the telephone.

Q To whom did you make that request?

A To Capt. Shirley Picard.

Q Who did you want to call?

A My mother.

Q Did he let you make the call?

A No, sir.

[fol. 536] Q Did you ever make the call?

A No, sir.

Q Now, did you sign this typewritten statement?

A No, sir.

Q Now actually when Capt. Shirley Picard was questioning you, did he type it first or did he write it down in longhand first?

A He wrote it down in longhand.

Q All right. And then he typed it from his longhand notes. Is that right?

A Yes, sir.

MR. PICCIONE: Your Honor, we move for a subpoena duces tecum on Shirley Picard for his longhand notes.

MR. DeBLANC: No objection.

THE COURT: All right, let such a subpoena be issued.

Q (By Mr. Piccione) Now, Claude, if you know, was there a Court Reporter there or a young lady or a man trained in stenography taking down the questions and the answers word for word?

A No, sir.

Q Did anybody take down your answers word for word?

A At least Shirley Picard was taking down some, you know—he was writing.

Q Do you know what he wrote down?

A No, sir.

Q All right. In view of what you read on this statement here, do you think he wrote down what you said?

A No, sir.

Q Is this what you said?

A No, sir.

[fol. 537] Q Now, did you give another statement the following morning—

A Yes, sir.

Q —after you had some sleep?

A Yes, sir.

Q Who did you give that statement to?

A To Sid Gilbert.

Q Detective Sidney Gilbert of Carencro?

A Yes, sir.

Q Now, how did he record your statement?

A Well, he took a little pad out of his pocket and he had a pen and—at least I think it was a tape recorder.

Q Describe the tape recorder.

A It was, you know, a little black object.

Q A little black object?

A Yes, sir.

Q What did you think it was at first?

A Well, I thought it was a radio at first.

Q Did you see him turn it on?

A Yes, sir.

Q Were there two little wheels that were turning?

A No, sir. At least I didn't see that, you know.

Q Do you know whether it was a tape recorder or not?

A No, sir. As far as I can say is that I saw him when he turned a knob.

Q Before you all started talking?

A Yes, sir.

Q And after he turned the knob he had it there on the table?

A Yes, sir. He had it sort of in the front of him.

[fol. 538] Q And did he ask you some questions?

A Yes, sir.

Q And did you then tell him what happened that night?

A Yes, sir.

Q Now, did you tell him what's contained on this statement here?

A No, sir.

Q What did you tell him?

A I told him that, you know, the same thing that I'm testifying today. That's what I told him.

Q You told him the day after this thing occurred that you're telling us in court today. Is that correct?

A Yes, sir.

Q Was anybody else there besides Sidney Gilbert?

A No, sir.

MR. PICCIONE: Your Honor, we move for a subpoena on Sidney Gilbert of Carencro, and subpoena duces tecum of what I believe to be a recorded statement, it

might be pertinent in this matter, taken on September the 5th—

Q (By Mr. Piccione) Was that the day after you were arrested or the same day?

A It was the Monday.

Q Was it still on that same day?

A Yes, sir.

Q What time of day?

A It was sort of in the night.

Q It was the night of Monday?

A Yes, sir.

Q All right, taken on September the 4th, 1967.

A Yes, sir.

[fol. 539] THE COURT: Does the State have any objection?

MR. DeBLANC: No objection.

THE COURT: All right, let a subpoena be issued to Sidney Gilbert and let a subpoena duces tecum be issued for the production of what?

MR. PICCIONE: Of the tape recording of the statement taken by him at that time from the defendant.

THE COURT: All right.

Q (By Mr. Piccione) Now, Claude, you've already answered the questions substantially that you didn't say these particular sentences that are typed on here and that you said what you did say to Capt. Shirley Picard.

A Yes, sir.

Q Now, who brought up the name Allen Breaux?

A Capt. Shirley Picard.

Q When Capt. Shirley Picard questioned you was anybody else present?

A Not at the time.

Q Were there some times when you all were alone and some times when you all were not?

A Yes, sir,—no, sir, they had some officers.

Q What other officers were around there?

A Well, they had some officers, you know, coming in and out.

Q Was Officer Sidney Broussard there?

A Well, I didn't see him.

Q You didn't see him?

A No, sir.

Q Was Officer Navarre there?

A He was in the police station but he wasn't in the [fol. 540] same room that I was in.

Q Well, when he questioned you essentially on this thing here, was anybody else in there besides you and Capt. Shirley Picard?

A No, sir.

Q Now, if it is stated later that Capt. Shirley Picard was on one side of you and Officer Navarre was on the other side of you, is that correct, when Capt. Picard questioned you?

A No, sir.

Q That's not correct?

A That's not correct.

Q When they questioned you, were you handcuffed or not?

A Not the, you know, the whole while.

Q Not the whole while?

A No, sir. They came and taken them off afterwards.

Q Now during the time that they were questioning you, how did you feel mentally?

A Well, like I said, I was dizzy and I was sleepy.

Q Were you having any trouble keeping awake?

A Yes, sir. My eyes, they were just about closed.

Q You told them that?

A Yes, I told them that.

Q Did you try to tell Capt. Picard what happened?

A No, sir.

Q Would he let you tell it?

A No, sir. He kept on interrupting, saying, "didn't you and this person do that" and "didn't you do this" and all that.

Q Was he suggesting to you, "didn't you do this or that"?

A Yes, sir.

Q Did he ask you, "Didn't you rape the girl"?

[fol. 541] A Yes, he did.

Q What did you tell him?

A I just nodded my head. I done like this (indicating).

Q Did you continuously and repeatedly answer that question, "Did you rape the girl", in the negative, that is that you didn't do it? Did you repeatedly deny that you raped the girl?

A No, sir.

Q Did you deny it, that you didn't do it?

A Yes, sir, I did deny it.

Q You did deny it.

A Yes, sir.

Q So that when his statement says that you said that you were standing in line, is that true or not?

A It's not true.

Q Do you know about how many times you indicated to him with your head or otherwise that you did not do it?

A At least after I nodded my head a couple of times telling him that it wasn't me, I didn't tell him that in words, but, you know, I was shaking my head. Then I sort of fell asleep.

Q When he gave you the statement back, the one you refused to sign, did you read it?

A Yes, sir.

Q Did it say in here that you denied that you said you did not rape the girl?

A Yes, I told him that I didn't rape the girl.

Q That's what you told him, but was that repeated in this written statement?

A No, sir.

[fol. 542] Q Now, Claude, did you make any other statements than the ones you have mentioned?

A No, sir.

Q That's the only statements you made?

A Yes, sir.

Q And at no time did you ever make a written statement either in your own hand or any written statement that you signed. Is that right?

A Yes, sir.

Q You have never signed a statement in connection with this matter.

A No, sir.
Q And when they took this statement of yours that's referred to here, was there a recording machine there?
A No, sir, not that I know of.
Q You didn't see them use a recording machine.
A No, sir.
Q The voices weren't taken down as far as you know.
A No, sir.
Q At that time had you been advised by an attorney?
A No, sir.
Q Was any member of your family present?
A No, sir.
Q Claude, have you told us the truth today?
A Yes, sir, I have.
Q Is that the truth?
A Yes, sir.
Q Can we depend on that?
A Yes, sir.
MR. PICCIONE: That's all.

[fol. 543] RECROSS EXAMINATION

BY MR. DeBLANC:

Q Did they take a picture of you that night?
A Yes, they did.
Q Was that before or after the conversation you had with Capt. Picard?
A It was after.
Q Afterwards?
A Yes, sir.
Q You were still sleepy then?
A Yes, sir.
Q How long afterwards did they take that picture of you?
A Well, it took about forty-five minutes.
Q About forty-five minutes afterwards?
A For them to question me it took about forty-five minutes. It was about fifteen—it was close to three.
Q When they took the picture it was close to three?
A Yes.

Q And where was it they took the picture?
A In another room.
Q Well, the picture that Mr. Piccione showed you and introduced in evidence, that's the picture that they took of you?
A Yes.
Q Is this the picture they took of you?
A No, sir. They took that picture of me, this one here, because I remember the next day my momma came bring me a black—pants with a black belt and they took a picture of me in a white T shirt and a brown pants. I made a mistake on that picture there this morning.
Q Oh, this was not the picture they took of you at [fol. 544] that time.
A No, sir. It was the other one with the white T shirt and the brown pants. They took that one the following day I think.
Q So this one was not taken that night.
A No, sir.
Q I show you this State Exhibit "A" and ask you if that's the picture they took of you.
A Yes, sir.
Q That's the picture?
A Yes, sir.
Q Do you see any marks on your face in that picture?
A Yes, sir.
Q Where?
A Right here.
Q You see a mark on your face?
A Yes, sir.
Q Where?
A On the left side of my eye.
Q Your left eye?
A Yes, sir.
Q You haven't been hit lately, have you?
A No, sir.
Q Well, where did you get that spot on your left eye?
A My left eye?
Q Yes.
A That was in Crowley about three months after they picked me up.

Q Well, you have—this dark object on your eye, that was there—at that time it was on your eye, wasn't it?
[fol. 545] A No, sir.
Q Oh, it was not?
A No, sir.
Q But this is the way you looked then at the time, this picture here.
A Yes, sir, but my eye was swollen.
Q Well, does it appear swollen to you in this picture?
A Yes, it does.
Q You were sleepy then?
A Yes, I sure was.
Q But this is not the picture that was taken that day.
A No, sir. It was taken the following day.
Q Now, were you mistreated in any way while they were asking you these questions?
A Well, I mean, you know, not exactly mistreated but, I mean, just the idea of him trying to bribe me by giving me—offering me coffee and a cigarette and all that.
Q Oh, he tried to bribe you by giving you coffee?
A Yes, sir, and a cigarette.
Q Well, except for trying to give you some coffee and cigarettes, they didn't mistreat you any kind of way.
A No, sir. They tried to talk—they kind of talked to me rough.
Q Well, how did you happen to fall asleep while you were being questioned?
A I was wore out.
Q They let you sleep a while?
A Well, they must have. I mean, I had my eyes closed.
Q He was trying to find out, as I understand, what happened in the park. Is that right?
[fol. 546] A Yes, sir.
Q All right. Now according to your testimony before this jury you were trying to be a good samaritan and try to help this woman in distress, right?
A Yes, sir.
Q Well, now, why didn't you tell him that?

A Well, I tried to tell it to him, but he kept on trying to put other words in my mouth.

Q But did you tell him that?

A No, sir. I mean, he didn't give me time to tell him. He kept on "didn't you and this person do this and that". He got me mad.

Q Now, you say Capt. Picard brought up the name of Allen Breaux.

A Yes, sir.

Q Well, who brought up the name of Linda?

A Well, it wasn't me. I mean, I didn't know the girl's name, me. It couldn't have been me.

Q Well, who could it have been that brought that name up?

MR. PICCIONE: Your Honor, I object to any reference to the name Linda. Unless I'm mistaken, I fail to see it mentioned anywhere in this statement.

MR. DeBLANC: "The white boy said, 'Linda, do right and they're going to leave us alone' ". That's Line 15.

We tender the witness.

REDIRECT EXAMINATION

BY MR. PICCIONE:

Q At the time you gave that statement, Claude, do you know whether or not Capt. Picard had talked to the young white boy? Do you know whether or not he had talked to the young white boy?

[fol. 547] A No, sir.

Q You had seen the white boy after you were arrested?

A No, sir.

Q Oh, you didn't see him in the park after you were arrested?

A No, sir.

Q You don't know whether the white boy had talked to the police or not.

MR. DeBLANC: Your Honor, we're going to object unless he makes it plain as to what white boy, what police, what statement.

Q (By Mr. Piccione) Well, did you see any white boy, any white boy, in the park after you were arrested?
A No, sir.
Q Or when they took you back to the station.
A No, sir.
Q You didn't see him at the station?
A No, sir.
Q Whether the police had taken his statement or not and he had informed them of anything, you don't know about that.
A No, sir.
Q Now, who brought up the name Linda?
A Capt. Shirley Picard.
MR. PICCIONE: Your Honor, that's all we have of this witness.
MR. DeBLANC: No further questions.

* * * *

[fol. 552]

STATE'S REBUTTAL TESTIMONY

Thereupon,

— SHIRLEY PICARD

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. DeBLANC:

Q Capt. Picard, do you know the accused Claude Alexander when you see him?
A Yes, sir.
Q Do you see him in court?
A Yes, sir.
Q Would you point him out to the jury?
A Right there, sir.
Q Did you have occasion to see and talk to him on September the 4th, 1967, at about two thirty in the morning?
A Yes, sir.

Q Where was that?

A Lafayette Police Station on Pierce Street.

MR. PICCIONE: Your Honor, I believe that technically speaking I'm obliged to repeat my objection to this line of testimony as being inadmissible against the accused for the constitutional reasons I have heretofore urged.

THE COURT: Yes, and the Court repeats that the Court has overruled your objection.

MR. PICCIONE: And we have reserved our bill of exceptions.

THE COURT: That is correct.

[fol. 553] Q (By Mr. DeBlanc) At that time did he make a statement to you?

A Yes, sir.

Q Was that statement that he made reduced to writing?

A Yes, sir.

Q How?

A Longhand and then I typed it.

Q And what did you do with your notes you had?

A I threw it away in the wastepaper basket.

Q Is that your regular procedure?

A Yes, sir.

Q I show you this instrument marked State Exhibit "A-13" for Identification—

MR. PICCIONE: Your Honor, I'm going to object to the witness being shown any paper unless it be first tied to how it's connected with the accused. The State has said they will offer an oral statement. Now here we see a written piece of paper. That's not oral. And I object to the witness being shown anything unless it's established by the proper foundation that this has anything to do with an oral statement.

MR. DeBLANC: We'll withdraw the question.

Q (By Mr. DeBlanc) Now, you said that the statement that he made to you was oral and you wrote it down on a piece of paper and then type it up.

A Yes, sir.

Q Now, do you have the statement that you typed up?

A Yes, sir.

Q Would you tell the jury what that statement was? You wrote that yourself?

A Yes, sir. I typed it.

[fol. 554] Q You typed it yourself?

A Yes, sir.

Q Would you take it out and read that stattment to the jury.

MR. PICCIONE: I object to him reading anything in writing, Your Honor. The proper question is what did the accused say, not what did Capt. Shirley Picard type down. It is improper for him to read what he typed out. An oral statement was what I was advised of, an oral statement is what is alleged. A statement of this man, not of that man. Let him testify to what this man said from his memory, not from his typing, not signed by this man. This is an oral statement, not a written statement. I say that's inadmissible.

MR. DeBLANC: We'll withdraw the question.

Q (By Mr. DeBlanc) What did he tell you?

A He stated that about nine or nine thirty p.m. he left his house. He met Allen Breaux on Lillian Road. They decided to go to the Country Club which is across the street from Betty's Lounge on Gilman Road. When they got in front of the Country Club on Gilman Road, they decided to go for a walk. Allen Breaux asked him if he wanted to go with him and break in a place somewheres in the park where he works. He said okay.

MR. PICCIONE: Just a moment, Captain. What are you looking at there?

THE WITNESS: Nothing, sir.

MR. PICCOINE: You're not looking at that paper?

THE WITNESS: No, sir.

MR. PICCIONE: All right, sir. Thank you very much. I saw you glance down.

THE WITNESS: Allen Breaux asked him if he [fol. 555] wanted to go in the park, break in a place in the park with him where he works in the park. He said okay.

They walked to Allen Breaux's house again and Allen Breaux got a crowbar inside of a 1956, '57 or '58 light greenish and white Oldsmobile and Allen Breaux put the

crowbar between his belt. They walked to Girard Park and once in Girard Park on a road by a lake they saw a white boy and a white girl standing on the road by a bridge.

Allen Breaux says, "Let's get the boy and the girl". Claude said okay. They walked up to the white boy and the white girl and the white boy told Allen Breaux if he wanted his money he could have it. Allen Breaux took the money and hit the white boy in the face and the white boy fell on the ground hollering that he could not see.

The white girl told him that if she would give him more money if they would leave him alone. Allen Breaux told the white girl if she wouldn't do right they would shoot both of them.. The white boy then said, "Linda, do right and they will leave us alone".

Allen Breaux jumped on the white girl, threw her on the ground, pulled her dress off and went with her. He stayed on top the white girl about forty to forty-five minutes. He was about to get on the white girl when the cops came and Allen Breaux ran in the ditch and he ran in the culvert under the bridge.

The policeman shot at him and he told him that he was coming out. He came out and broke out running and the policeman chased him and caught him three or four blocks away.

Q (By Mr. DeBlanc) Did you have occasion to talk to Rick Arleth in that case?

A Later on that morning.

[fol. 556] Q You hadn't talked to him at that time?

A No, sir.

Q Had you talked to the girl at that time?

A No, sir.

Q Did you know who she was?

A No, sir.

Q Did you know her name?

A No, sir.

Q And in that statement you referred to her by name.

A Yes, sir.

Q What name?

A Linda.

MR. DeBLANC: We tender the witness.

CROSS EXAMINATION

BY MR. PICCIONE:

Q Captain, to your knowledge had Sidney Broussard gone with the girl to the hospital?

A. Not at the time, sir.

Q Before you questioned Claude Alexander, had Sidney Broussard to your knowledge gone to the hospital with the girl?

A I don't know, sir.

Q Was Sidney Broussard there when you questioned Claude Alexander?

A Yes, sir.

Q You spoke to Sidney Broussard before you questioned Claude Alexander?

A No, sir.

Q You did not?

A No, sir.

Q Did Sidney Broussard tell you that the girl's name [fol. 557] was Linda?

A No, sir.

Q You deny that you knew the girl's name was Linda before you ever took this statement?

A Yes, sir.

Q Now, Captain, how many tape recorders does the Lafayette Police Department have?

A One.

Q If another officer reported that they have six or seven, would you know whether that's correct?

A I'd have to say one.

Q One where?

A One tape recorder which was kept in the juvenile office room.

Q In the same building where your office is?

A Yes, sir.

Q Well, now, whether there was one or more tape recorders, why didn't you use it so that we'd have the actual voices and the word for word of what you said and of what the accused said? Why didn't you do that?

A Because I feel my voice don't carry too good on a tape recorder.

Q You don't record too well?

A That's right.

Q In other words, that wouldn't be as far as these statements coming from you, would it? This is more accurate than a tape recorder would be in your opinion. Is that right, sir?

A In my opinion, yes, sir.

Q So that's why you didn't use a tape recorder. Did [fol. 558] you think of calling a stenographer and having her take down the questions from you and the answers from this man?

A No, sir.

Q You didn't think of that?

A No, sir.

Q You don't follow that procedure. That wouldn't be as fair as your taking down the statement in longhand, then tearing it up and throwing it in the wastebasket so we can't have it in our subpoena duces tecum—

MR. DeBLANC: I object to the argument, Your Honor.

MR. PICCIONE: I'm not arguing. I'm asking a question.

Q (By Mr. Piccione) You don't think that's as fair, do you? You can't produce the paper that you first wrote this statement down on, can you?

A No, sir.

Q You tore it up and threw it in the wastebasket.

A I threw it in the wastepaper basket, yes, sir.

Q So then you rehashed the statement on a piece of paper and you memorized it and you have testified today from memorization word for word what your typewritten statement says, haven't you, Captain?

A I let Alexander read it and he said that's what happened.

Q How about answering my question. Have you memorized your typewritten statement and given it to us word for word?

A Yes, sir. It's my record.

Q What you said to the jury was word for word, was

it not, according to your typewritten statement? Isn't that right?

A Yes, sir.

[fol. 559] Q Now, I've got a photostatic copy of that statement. Is it signed by Claude Alexander?

A No, sir.

Q Who is it signed by?

A Shirley Picard; Detective Captain Shirley Picard.

Q That's your signature right there?

A Yes, sir.

Q That's your statement.

A That's Alexander's statement.

Q You signed it.

A I signed it.

Q Now as a matter of fact, when you took this statement did you not refuse to permit him to call his mother?

A No, sir.

Q When you took this statement, did he not tell you that he wanted to go to jail so he could sleep?

A No, sir.

Q Because he was pooped.

A No, sir.

Q He didn't tell you that.

A No, sir.

Q Did he slump down in his chair and close his eyes?

A No, sir.

Q He didn't do that.

A No, sir.

Q Did you permit him to use the phone?

A I handed him the phone, sir.

Q And was he handcuffed at that time?

A No, sir.

Q When had the handcuffs been taken off of him?

[fol. 560] A When I arrived at the station he wasn't handcuffed.

Q Did he have his clothes on?

A Yes, sir.

Q Did he have his shoes on?

A No, sir.

Q Who else was there?

A At the time I arrived at the station?

Q At the time you questioned him.
A Officer Sidney Broussard and Anthony Navarre.
Q Did Officer Broussard have his pistol on?
A Yes, sir.
Q And he sat in the chair right to the left of Claude?
A I believe to the right of him.
Q All right, to the right of Claude. And Officer Navarre had his pistol on?
A Yes, sir.
Q And he sat to the left of Claude?
A Yes, sir.
Q And you had a little table and you sat on the other side of Claude?
A Yes, sir.
Q You had your pistol on?
A Yes, sir.
Q Was anybody else there besides the three officers and the accused?
A Not that I can recall when he was giving me the statement, no, sir.
Q Had he had the advice of counsel?
A Yes, sir.
Q Had he had the advice of an attorney?
[fol. 561] A Yes, sir.
Q Had an attorney advised him?
A No, sir; no, sir.
Q Had he talked to any member of his family?
A Not to my knowledge, no, sir.
Q He was under arrest?
A Yes, sir.
Q He was in custody?
A Yes, sir.
Q So would you say he was surrounded by his friends?
A I couldn't judge friends or enemies.
Q Now, is it not a fact that throughout your questioning of Claude Alexander he consistently and repeatedly denied that he raped anybody.
A He didn't tell me he raped anybody.
Q Now, that's not my question. My question is, did he not throughout the questioning consistently and repeatedly deny that he raped anybody?

A No, sir. He said he was about to get on top of the white girl.

Q Now, I'm going to impeach your testimony and I want to warn you right now. Did you not on the occasion of October 26, 1967, in Abbeville, Louisiana before the Honorable Charles Everett in a preliminary hearing in this matter, did I not ask you the question:

"Q Did he not consistently and repeatedly deny that he had raped anybody"?

And did you not answer:

"A In a matter of speaking, yes".

Now, did you or did you not answer yes in Abbeville [fol. 562] whereas you answered no here in Lafayette?

A I stated that he said he did not rape her, Mr. Piccione.

Q Well, did you say it like the Court Reporter says, "In a matter of speaking, yes"? Is that your answer?

A I don't recall it.

Q Well, now, are you going to admit that this is your answer or shall I call Mr. Cecil Knickerbocker, the Court Reporter?

A He did not admit raping the girl, the white girl; he did not.

Q Did you answer to my question in the words, "In a matter of speaking, yes"?

A Possibly, yes, sir.

Q Now, are you going to distinctly admit it or is there going to be a question about it? Did you distinctly say "In a matter of speaking, yes"?

A Yes, sir.

Q Now, then, look back at your statement that you typed out that you say is the statement of Claude Alexander and show me where in that statement you recorded that he consistently and repeatedly denied that he raped anybody. Now look at your statement and you tell me whether you've got that in that statement or not.

A No, sir.

Q You say that Claude did that several times yet you don't have it one time, do you, in your written statement?

A No, sir.

Q Now, you didn't think that was very important, did you?

A Sir?

Q I say, you didn't think that was very important, did you?

A Evidently not.

[fol. 563] Q Evidently not. In other words, it's pretty clear, isn't it, that this is not a complete report of what Claude Alexander said on that occasion? It isn't complete because it lacks this that he said that you admitted he said consistently and repeatedly that he did not rape anybody. Am I right?

A He did state that he did not rape anybody.

Q And you don't have that in this written record of the oral statement, do you?

A No, sir. I don't have that he raped anybody.

MR. PICCIONE: Your Honor, at this time I'm going to move now that this entire oral statement be rejected from this record and that the jury be instructed to disregard it because it is a part of a statement. It is not a statement in its entirety. Only the entirety is admissible in evidence and a part of it is not admissible in evidence, in all fairness it ought therefore be disregarded and struck from the record.

THE COURT: Has the statement been admitted into evidence?

MR. PICCIONE: Well, Your Honor, it has been read into the record and it has been heard by the jury. I don't know how else you'd say it's being admitted.

THE COURT: Is your objection directed toward the admittance of the statement or the testimony of Capt. Picard?

MR. PICCIONE: Well, Your Honor, the statement is contained within the testimony.

THE COURT: You're talking about the paper that you have in your hand?

MR. PICCIONE: No, sir, I'm talking about the—

THE COURT: You're talking about the testimony of Capt. Picard?

[fol. 564] MR. PICCIONE: I'm talking about the evidence bearing upon the statement that Capt. Picard says

he gave him orally. He has testified today about a part of the statement. The State did not bring out the part which I brought out. I had to bring it out to prove that there was more to the statement. I say now that the State has tried to bring in a part of the statement and to show, Your Honor, that it was a part I had to prove the entirety and because they didn't offer the entirety the part is inadmissible.

THE COURT: I'll overrule your objection.

MR. PICCIONE: And I will reserve a bill of exception and make a part of it the entire testimony on this matter taken out of the presence of the jury as well as in the presence of the jury, particularly the direct and the cross examination of Capt. Shirley Picard this morning, his admission. I make a part of the record also the question and the answer appearing on Page 23 of the transcript of the record which is already a part of the preliminary hearing in this matter and I make a part of it my objection, my objection that it's a part of a statement and not the entirety and that only the entirety is admissible into evidence, Your Honor's ruling denying my request that the jury be instructed to disregard the statement, and I reserve my bill of exceptions.

THE COURT: All right, let the bill be noted.

Q (By Mr. Piccione) Was there anything else, Captain, that Claude said that you failed to put in that written report?

A Not to my knowledge, sir.

Q That record that you typed up, that's a proper report of what he said?

A Yes, sir.

[fol. 565] Q That's not what you said?

A No, sir.

Q You didn't suspect that Allen Breaux was involved.

A No, sir.

Q You didn't suggest that to him.

A No, sir.

Q You didn't suggest to him that Linda said this and that.

A No, sir.

Q You didn't know the name Linda at that time.

A No, sir.

Q And this was several hours after the man was arrested.

A Yes, sir.

Q You denied that he told you to take him to jail because he wanted to get some sleep. But I ask you this question. Did you not tell him that he wouldn's get that or whatever it was until he told you what happened in the park?

A No, sir.

Q You deny that you denied something to him until he told you what happened in the park?

A Yes, sir, I deny it.

MR. PICCIONE: That's all, Your Honor.

REDIRECT EXAMINATION

BY MR. DeBLANC:

Q Before you started questioning him, did you tell him anything?

A I advised him of his rights. He had the right to remain silent, anything he said could be used against him in court, he was entitled to a lawyer, and if he didn't have one that one would be provided for him, and also that he [fol. 566] could stop talking any time he felt like it.

Q Now, was anything offered to him during the course of the conversation?

A I offered him the telephone, sir.

Q Was there any coffee brought there?

A Not to my knowledge, sir.

MR. DeBLANC: That's all.

RECROSS EXAMINATION

BY MR. PICCIONE:

Q Captain, you did tell this man, did you, that he had a right to be advised by an attorney?

A I advised him that he had a right to a lawyer.

Q And that he had a right to have an attorney present when the statement was taken?

A No, sir.
Q You didn't tell him that?
A No, sir.
Q Nor did you tell him that if he was without money and unable to hire a lawyer that one would be appointed to him by the Court.
A I advised him if he couldn't afford a lawyer one would be provided for him.
Q You say that under oath that you told him that.
A Yes, sir.
Q And he made no response.
A No, sir.
Q He didn't say anything, did he?
A No, sir.
Q And was he slumped down in his chair with his eyes closed at the time?
[fol. 567] A No, sir.
Q But he didn't answer you.
A No, sir.
Q Whether he heard you or understood you and knew what you were talking about you don't know, do you?
A No, sir.
MR. PICCIONE: Thank you.

REDIRECT EXAMINATION

BY MR. DeBLANC:

Q That statement was free and voluntary, was it not?
MR. PICCIONE: Your Honor, I object to that as a conclusion of law and I think we've been over that outside of the presence of the jury.
THE COURT: I think possibly that's correct.
MR. DeBLANC: No questions.

(Witness excused)

MR. DeBLANC: The State will call Sidney Broussard.

Thereupon,

SIDNEY JOSEPH BROUSSARD, JR.

was recalled as a witness, and having previously been duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. DeBLANC:

Q Will you state your name, please.
A Sidney Joseph Broussard, Jr.
Q Do you know the accused in this case Claude Alexander.
A Yes, sir.
Q Did you have occasion to see him about two thirty o'clock in the morning of September the 4th, 1967, at the police station?
A Yes, I did.
[fol. 568] Q Where was that in the police station?
A In the detective room.
Q Who was there?
A At the time?
Q Yes.
A Capt. Picard.
Q Did you hear him make a statement to Capt. Picard there?
A Yes, sir.
Q What was that statement? What did it say?
MR. PICCIONE: Your Honor, same objection on any oral statement of the accused since it's another witness.
THE COURT: I'll overrule the objection.
MR. PICCIONE: And I reserve my bill in the same phraseology as before.
THE COURT: All right, let it be noted as such.
MR. DeBLANC: I'll rephrase that question.
Q (By Mr. DeBlanc) Before he made that statement, did Capt. Picard tell him anything?
A He advised him of his rights, yes, sir.
Q What was that statement?

A I have the statement with me. Can I read it or—
Q Well, tell us what you heard.
A Well, his statement was that he left his house around nine, nine thirty that night and that he had met subject by the name of Allen Breaux on Lillian Road, that they walked to the Country Club and when they got to—

MR. PICCIONE: If Your Honor please, pardon the interruption, but I've got to interrupt at this time. I'd like to have an opportunity, Your Honor, to question this witness, possibly out of the presence of the jury, as Your [fol. 569] Honor may rule, on when he learned this because he's obviously got a piece of paper in his hand.

THE COURT: Let's retire the jury.

(At this time the jury retired from the courtroom and counsel for the respective parties argued to the Court, after which the jury returned to the courtroom.)

THE COURT: Do you waive the polling of the jury?
MR. DeBLANC: Yes, Your Honor.
MR. PICCIONE: Yes, Your Honor.
THE COURT: You may proceed.

EXAMINATION (CONT'D.)

BY MR. DeBLANC:

Q What did you hear this man here tell Capt. Picard that early morning at two thirty in the morning on September the 4th at the police station?
A You want me to start at the beginning?
Q Yes.
A He stated that at about nine, nine thirty that night he left his house and he met a subject by the name of Allen Breaux on Lillian Road, that they walked to the Country Club. While they were there at the Country Club Allen Breaux asked him if he wanted to go break into a place where he worked at and Alexander said okay.

So they walked back—he said they walked back to Allen Breaux's house and got a crowbar out of Allen Breaux's '57 or '58 greenish white Oldsmobile and that

Allen Breaux took the crowbar and placed it between his belt and that they walked to Girard Park.

When they got in the park they met a white boy and a white girl on the road by the lake. Allen Breaux asked [fol. 570] Claude Alexander if he wanted to get the boy and the girl, the white boy and the white girl. Claude Alexander said okay. They walked up to them and Allen Breaux asked him for his money and the boy gave him the money and he hit that boy. The girl said, "If I give you all more money will you all leave us alone"? Allen Breaux jumped on the white girl, knocked her down, pulled her dress off, got on top of her and went with her.

Claude Alexander stated that Allen Breaux stayed on the white girl for at least forty to forty-five minutes and that as he was about to, Claude Alaxender was about to get on the white girl the cops came. Allen Breaux ran down the ditch and that he got into a concrete culvert and the policeman said come out and he did and that's when he started running and caught him about two or three blocks away.

MR. DeBLANC: We tender the witness.

CROSS EXAMINATION

BY MR. PICCIONE:

Q Mr. Broussard, have you got a copy there in your possession of Capt. Picard's statement?

A Yes, sir.

Q May I see it?

A Yes, sir.

Q All right. Now, how long have you had this particular copy?

A The night he gave the statement.

Q Since the night that who gave the statement?

A Claude Alexander gave the statement.

Q What date was that?

A On September the 4th, '67.

Q And you've had that statement in your pocket all [fol. 571] that time?

A I had it at the house.

Q How many times have you looked at it?
A I looked at it when the trial was set the first time. I had it in my possession and also since Monday.
Q You read it over carefully?
A Yes, sir.
Q You studied it?
A I refreshed my memory on it.
Q Did you study it again after that?
A Yes, I did.
Q And you studied it again yesterday?
A I read it yesterday.
Q You knew you were going to be called on the stand so you studied it very carefully. Is that right?
A Yes, sir.
Q So therefore your testimony today is your study and your memory of what is written by Capt. Picard on this piece of paper. Isn't that right, sir?
A No, sir. I was present at the time the statement was given.
Q Well, you were present when Claude Alexander made certain statements. Is that right, sir?
A Correct.
Q Is this statement signed by Claude Alexander?
A No, sir.
Q But you have testified from this piece of paper, haven't you, a copy of it?
A I refreshed my memory from that piece.
Q In other words, you kept your memory fresh by [fol. 572] looking at this time and time again in these last several months. Is that correct?
A Yes, sir.
Q That's clear, isn't it?
A Yes, sir.
Q Now, then, let's see how good your memory is on what was said when the statement was taken. Did Claude Alexander several times state in effect "I did not rape anybody"?
A No, sir, he didn't state that.
Q He never said that once?
A Not when I was present, no, sir.
Q He didn't say that repeatedly and consistently?

A No, sir, not that I remember.
Q More than once?
A If he did I didn't hear it.
Q In other words, if he said anything that's not stated in this typewritten report of the statement, you don't know about it. Is that right?
A No, sir.
Q And you don't even remember it. Is that right?
A Not if anything else was said, no.
Q So that if Capt. Shirley Picard testified that he did consistently and repeatedly deny that he raped anybody, then you would say that Capt. Picard was mistaken and that you're correct?
A I didn't hear that at all.
Q You mean he could have said that several times and you didn't hear it?
A It's possible that I didn't hear him.
Q You weren't concerned as to whether or not what Capt. Picard typed down was a complete statement or an [fol. 573] incomplete statement?
A Capt. Picard is the one that took the statement down, sir, and I was just there present listening to it.
Q In other words, Capt Picard is responsible for the statement. Is that right?
A He was the investigating officer in command.
Q You don't resume any responsibility toward the result of what was typed down.
A I was present.
Q You were just present.
A Right.
Q Mr. Broussard, were you in the police unit that took Miss Linda Dossey to the hospital?
A Yes, sir.
Q You helped get her up into the hospital?
A Yes, we brought her to the hospital.
Q You talked with her a little bit?
A No, sir, I didn't talk to her.
Q You tried to help her?
A Yes, sir.
Q Who else was there when you took her to the hospital?

A Auxiliaryman John Broussard and Carl Arleth.

Q The young man who was with her was also there?

A Correct.

Q And you were able to talk with him, right?

A Correct.

Q And he told you that his date's name was Linda Dossey?

A Correct.

Q So you knew at that time that her name was Linda Dossey.

A Correct.

[fol. 574] Q When you got back to the station you told Capt. Picard what you had learned, that Linda Dossey and Carl Arleth were the names of the people involved?

A No, sir. You mean right when I got there?

Q I don't mean right when you got there. I mean any time after you got there? Did you not tell Capt. Picard that?

A Yes, sir, I did.

Q You did tell him that, didn't you?

A Yes, sir.

Q And that was before he took the statement of Claude Alexander that you said you witnessed.

A No, sir.

Q No, sir, what?

A It was after we took the statement.

Q You remember that?

A Yes, sir.

Q You remember that or have you had a discussion outside of this courtroom that it's a necessary thing to establish that Linda came from him rather than from Capt. Picard?

A No, sir.

Q You haven't discussed that?

A No, sir, we haven't.

Q You haven't discussed that with Capt. Picard?

A No, sir.

Q Have you discussed it with anybody else?

A No, sir.

Q That's the truth?

A That is.

Q Now think back very carefully. Did you report to Capt. Picard when you got back from Our Lady of Lourdes [fol. 575] Hospital of what you had found out? Did you report to him?

A After we come out, after we come out of the detective room, yes, sir.

Q Didn't you report to him what you had found out before the interrogation proceeded?

A No, sir, I hadn't.

Q In other words, you didn't even assist the investigating officer by telling him what you had learned at the hospital and on the scene. You let him go ahead with the interrogation without telling him what you had found out. Is that correct?

A Correct.

Q Is that the procedure you follow?

A When I arrived at the station, Capt. Picard was entering the detective division, detective room, and I followed him inside.

Q And you didn't talk with Capt. Picard?

A No, sir.

Q You just listened.

A Correct.

Q Was it not Capt. Picard that asked Claude Alexander, "Weren't you with Allen Breaux tonight"? Didn't he say, "Weren't you with Allen Breaux in the woods tonight", or words to that effect?

A No, sir.

Q Was it not Capt. Picard who said to him, "Didn't Linda offer you her money"?

A No, sir, I didn't hear that.

Q It could have happened that way.

A Pardon?

Q It could have happened that way and you just don't [fol. 576] remember it?

A I don't recall it.

Q You don't know.

A No, sir.

Q You don't know who supplied the name Linda. Is that right?

A Supplied the name Linda?

Q Yes. Do you know whether you supplied it? You knew the name, didn't you?
A Correct. I had it in my notebook.
Q You had it in your notebook.
A Correct.
Q Did you supply the name?
A No, sir, I didn't supply the name.
Q Well, did Capt. Picard supply it?
A No, sir.
Q Did anybody supply it?
A In the statement I understood the white boy—in the statement Claude Alexander gave, after the boy, the white boy was hit, he stated "Linda, do right and they'll leave us alone".
Q And you're telling me then that this man here would have heard that one time in the park in an activity of this type and he remembered that name and furnished that name in this interrogation?
MR. DeBLANC: We object to that as calling for an opinion as to what Mr. Arleth might have thought.
THE COURT: I'll sustain the objection.
Q (By Mr. Piccione) That's your memory.
A Correct.
MR. PICCIONE: That's all, Your Honor.
[fol. 577] MR. DeBLANC: That's all.

(Witness excused)

MR. DeBLANC: Officer Navarre.
Thereupon,

ANTHONY NAVARRE

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

DIRECT EXAMINATION

BY MR. DeBLANC:

Q Will you state your name, please.
A Anthony Navarre.
Q And your occupation?

A City Police.
Q In the City of Lafayette?
A Correct.
Q Do you know Claude Alexander?
A I do.
Q Do you see him in the courtroom?
A I do.
Q Will you point him out to the jury.
A He's sitting to the right of Mr. Piccione.
Q Did you have occasion to see him on September the 4th at the City Police Station?
A I did.
Q About what time was that?
A I cannot determine on the time, but it was after one thirty in the morning.
Q Now, where was it you saw him there?
A In the detective office.
Q Who else was there?
[fol. 578] Q Capt. Picard and Officer Broussard.
Q Which Broussard?
A Sidney Broussard.
Q Did you have occasion to hear him make a statement to Capt. Picard there at that time?
A As he began to make his statement I departed from the office. I was called out to go on an errand, on a mission.
Q You walked out before he made the statement?
A Correct.
Q Had he started to make the statement at that time?
A Negative. As I walked out—right after he refused to use the phone I walked out.
Q Right after he refused to sign?
A Right after he refused to use the phone, and I came back later on.
Q Well, did you see what Capt. Picard did during the time that you were there?
A Well, when I returned back, yes, I did.
Q What did he do?
A When I returned back Alexander was talking and Capt. Picard was writing. In other words, he was writing his statement.

Q How was he writing it?
A He had a sheet of paper and a pencil.
Q Did you see what he did afterwards with the sheet of paper?
A He later typed it and gave the statement to Alexander to sign, asked him if he wanted to sign.
Q Did he sign it?
A He picked it up, picked up the pen and made a motion to sign and then he threw the pen on the desk and [fol. 579] said that he wouldn't sign anything or he wouldn't say anything more unless he was given his shoes.
Q Did you hear Capt. Picard tell him anything before he gave him the statement?
A I did.
Q What was it he told him?
A Capt. Picard advised him of his rights.
MR. DeBLANC: We tender the witness.

CROSS EXAMINATION

BY MR. PICCIONE:

Q Just this, Mr. Navarre. Do you recall Claude Alexander asking to call his mother or for someone to call his mother?
A I don't recall that.
Q Nobody saw fit to call his family at that time?
A I did not.
Q You all did call the family of the young boy and the young girl, didn't you?
A I did not call.
Q Somebody called them.
A Correct.
Q They came there that night.
A I saw the girl's father that night, but I don't know who called him.
Q Did you see Claude Alexander's mother?
A I did not.
Q Or any of his relatives?
A I did not.
Q To your knowledge, nobody called them, did they?

A To my knowledge no one called.

Q Did you hear Claude say, "Take me to jail, I'm [fol. 580] pooped, I want to sleep, let me sleep", before this statement was taken?

A Not before the statement was taken.

Q When was it?

A He made this statement as I and Officer Broussard —Auxiliaryman Broussard was taking him to jail. It was just as we departed from the station.

Q But you do remember him making that statement now. Is that right?

A Correct.

Q Who else was there when he made that statement? Was Sidney Broussard there?

A I honestly cannot recall; however, Auxiliaryman Broussard was there.

Q Was Capt. Shirley Picard there?

A I cannot recall that, sir.

Q You don't remember if they were there and heard that statement?

A No, I cannot.

Q Do you remember Capt. Picard telling Claude Alexander that he would not let him have some rest, sleep, until he told him what happened in the park? Now, think about that.

A He made no such statement to my knowledge.

Q You don't remember that?

A He made no such statement in my presence.

MR. PICCIONE: That's all, Your Honor.

MR. DeBLANC: That's all.

* * * *

Monday Mar 30 1970

SUPREME COURT OF LOUISIANA

Nos. 50,012 and 50,013

STATE OF LOUISIANA

v.

CLAUDE ALEXANDER

Appeal from the Fifteenth Judicial District Court
Criminal Division, Parish of Lafayette

HONORABLE JEROME E. DOMENGEAUX, JUDGE

McCALEB, Justice.

Claude Alexander and Lee Perry Pratt were originally indicted by the grand jury for the Parish of Lafayette for having committed the crime of aggravated rape on September 4, 1967. However, following a hearing and disposal of certain motions and pleas prior to trial, the judge granted a severance at the behest of Pratt and, thereafter, the District Attorney pursuant to Article 705 C.Cr.P. filed separate indictments against each defendant. Alexander entered a plea of not guilty. After the trial, the jury returned a verdict of guilty without capital punishment and he was sentenced to life imprisonment. He has appealed, relying upon the following bills of exceptions,[1] for a reversal of his conviction. Some of these bills are common to those reserved by Lee Perry Pratt,

[1] Appellant, who has employed new counsel since his conviction, reserved numerous other bills of exceptions numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 11, 12, 13, 14, 15, 16, 17 and 41 during his trial. These bills were perfected but, since they have not been mentioned either in oral argument or in brief in this Court, we presume they have been abandoned. Nevertheless, we have examined these bills and find they either refer to matters which are now moot or that they are without merit.

who has also appealed and whose conviction has this day been affirmed. See State v. Pratt, —— La. ——, —— So.2d ——, No. 50,014 of our docket.

The record reveals the following facts: About midnight on September 3, 1967, a sixteen year old girl accompanied by her date, Carl Arleth, Jr., an eighteen year old young man, after visiting various places of amusement in Lafayette, Louisiana, went to Girard Park where they decided to stop for a few minutes. While walking in the vicinity of the park lake, they were accosted by two young Negroes, Claude Alexander and Lee Perry Pratt.

These two men informed the couple that they had a gun and grabbed Arleth, robbing him of $4.00. One of the men then assaulted the young girl who began screaming and fighting him off. At that time the other man struck Arleth, knocking him down and, as he lay on the ground, Alexander and his companion assaulted the girl, telling her that she had better do what they wanted or they would shoot both her and her boyfriend. The two men tried to tear off her clothes, and succeeded in pulling off her girdle and underwear. Then Alexander had sexual intercourse with the girl while his companion helped to hold her down and quiet her. Following this, the companion had sexual intercourse with the girl while Alexander held her down. This procedure was again alternated. At that point, the girl had only her bra and dress on, but Alexander pulled off the dress and grabbed her by the wrists, dragged her on her bare skin across the blacktopped street for a distance of 185 feet and dumped her into the coulee which was eleven feet deep. About this time she blacked out and Alexander then went down into the coulee and again began having sexual intercourse with her. They were lying in the coulee at the entrance to a large concrete culvert across the road and, while Alexander was having sexual relations with her, the City Police came upon the scene. Two officers, Sidney Broussard and Patrolman John Broussard, were in the patrol car when Sidney Broussard noticed someone running in the coulee. He stopped the car, got out and spotted his light within the coulee where he saw Alexander lying in a prone position on top of the girl. Upon being discovered,

Alexander got up, zipped the fly of his trousers and entered the North end of the culvert right next to where he had been lying. The other officer then ran to the other end of the culvert. At this time Officer Sidney Broussard loudly called on Alexander to come up. Upon the latter's failure to do so, the officer fired a shot on the side of the culvert into the ground. Then Alexander came out on the North end of the culvert and was placed under arrest by the officers who had him lie on the ground face down. At this time the girl was screaming and began climbing the banks of the coulee, and Sidney Broussard went to her assistance. When he did so, Alexander got up and fled. The officers followed him in close pursuit and finally apprehended him.

The first bill presented by defense counsel for our consideration is designated in the record as Bill of Exceptions No. 10 and was taken to the overruling of Alexander's motion to quash the indictment. This bill is similar to Bill of Exceptions No. 2 in State v. Pratt, supra, and, for the reasons hereinafter stated and those given in the Pratt case, we find the complaint to be without merit.

The grounds advanced for quashing the indictment are:

"* * *

"(1) That citizens who are females were systematically excluded from the Grand Jury list and venire and from the Grand Jury as empaneled.

"(2) That citizens of the Negro race were included in the Grand Jury list, and Grand Jury venire, in such small numbers as to constitute only a token, having no relationship to the number of citizens of the Negro race as compared to the number of citizens of the Caucasian race in the general population in the Parish of Lafayette and in the Fifteenth Judicial District of the State of Louisiana.

"(3) That the indictment found by the Grand Jury is defective for failing to inform the accused, Claude Alexander, of the facts and circumstances necessary to constitute the alleged crime of aggravated rape.

"(4) That the indictment * * * is invalid and illegal and should be quashed because said indictment

was returned by a Grand Jury empaneled from a Grand Jury venire made up contrary to the provisions of Amendment V, Amendment VI, Amendment XIV and Amendment XV of the Constitution of the United States of America."

It is obvious, from a mere reading of the grounds above set forth, that the objection stated in paragraphs one and three are clearly without substance. It is well settled that the fact that women do not appear on a general venire list for jury duty furnishes no cause for quashing an indictment in view of Article 402 of the Code of Criminal Procedure. See also State v. Comeaux, 252 La. 481, 211 So.2d 620; Hoyt v. State of Florida, 368 U.S. 57, 82 S.Ct. 159, 7 L.Ed.2d 118 (1961); and State v. Lee Perry Pratt, supra, this day decided. And the claim in paragraph three that the indictment is defective in that it fails to inform defendant of the nature and cause of the accusation against him is likewise not well founded. The accused is charged under the short form provided in Article 564 C.Cr.P., and this form has many times been held sufficient to satisfy constitutional requirements. State v. Barksdale, 247 La. 198, 170 So.2d 374, and cases there cited.

The main contention under the motion to quash is that Negroes were included in the grand jury list and general venire in such small numbers as to constitute only token representation and, thus, warrants the conclusion that they were systematically excluded by design because of their race from grand jury service.

The question of purposeful inclusion or exclusion of members of a race from jury service is manifestly one of fact, and the burden rested with defendant to establish his claim. See State v. Mack, 243 La. 369, 144 So.2d 363, and cases there cited. In assuming this burden, defendant called to the stand the registrar of voters and the clerk of court, who is also a member of the jury commission.

The testimony of these witnesses, particularly that of the clerk of court, as we have found in State v. Pratt, this day decided, does not support counsel's contention for, after reviewing the evidence in the case, we declare:

"The fact that the Grand Jury included no members of the Negro race is, in our opinion, a matter of coincidence and not purposeful exclusion. As stated supra, the composition of the general venire was indiscriminate; the names of the Grand Jury venire were drawn from the general venire. It follows that race was not a factor in selection. See Article 411, Louisiana Code of Criminal Procedure."

In view of the finding in the Pratt case, it would be superfluous to discuss in detail the evidence upon which our conclusion rests. Suffice it to say that the evidence shows that the general venire list of 400 names contained the names of 25 Negroes, a circumstance which lends support to the testimony of the clerk of court that the venire list was chosen from the card index without reference to race. Furthermore, the fact that the 20 names drawn by lot from the general venire to comprise the grand jury venire for the court term, during which defendant was indicted, contained the name of only one Negro cannot be regarded as an indication that Negroes were systematically excluded from grand jury service in the absence of a showing that over the years a pattern has been established whereby only a token number of Negroes has been selected to serve on grand juries in Lafayette Parish. For, without some evidence of this sort, there is no sound basis for rejecting the testimony of the clerk of court (who, incidentally, was the only member of the jury commission consisting of five persons called by defendant to testify), that the general venire of 400 names was selected without consideration of race, color or creed.

Bills of Exceptions Nos. 18, 19, 20, 21, 22 and 23 are interrelated and treated as one in the briefs of defendant and the State. Bills Nos. 18, 19 and 20 were taken when the court ruled, over defense counsel's objection, that the State could exhibit to Officer Sidney Joseph Broussard, Jr. certain photographs of the victim and her escort, Carl Arleth, showing cuts, scratches and abrasions on their bodies on the day after the rape. Also, the officer was permitted to identify a photograph of the defendant. And

Bills 21, 22 and 23 were reserved when the judge permitted these photographs to be shown Auxiliary Patrolman John Broussard for his identification of the defendant, the victim and her escort.

Defense counsel contends that these photographs were used by these witnesses in their testimony before the jury without a proper foundation being first laid for their admissibility since there was nothing to indicate at the time the Broussards testified as to when, where or by whom the photographs were made or their materiality and relevance to the State's case.

We find no merit in the bills. While it is true that the foundation for the admission of the photographs had not been laid at the time the objections were made and the identification of the persons therein pictured were given by the officers, the fact remains that the State was not attempting to offer the photographs in evidence at the time the police witnesses identified the persons pictured therein. Later on during the trial, after the proper foundation had been laid, the photographs were admitted in evidence without objection.

Article 773 of the Code of Criminal Procedure provides that neither the State nor the defendant can be controlled by the court as to the order in which evidence shall be adduced. However, when evidence requires a foundation for its admission, the foundation must be laid before the evidence may be received. Since the State was not attempting to offer the photographs in evidence, the objection that the foundation for their admission must first be laid was premature and out of context with the announced purpose of their use. But, if the use of the photographs at that time was objectionable, we would still find no substance in counsel's contention inasmuch as the photographs were properly admitted at a later time when the foundation was laid for their reception in evidence.

Bill of Exceptions No. 24 was taken when the court overruled an objection by defense counsel to a statement made by Carl Arleth, the girl's escort who, in testifying for the State, declared that when the police arrived he told them "* * * that Linda had been raped * * *." De-

fense counsel conceives that this was opinion testimony and, therefore, inadmissible.

The objection was properly overruled. Arleth was not testifying to an opinion; he was stating a fact, as he had witnessed the rape.

Bill of Exceptions No. 25 was reserved to the trial judge's ruling permitting the in-court identification of the accused by the State witness, Carl Arleth, Jr., who was present at the time of the commission of the crime. The objection was based on the contention that the proper foundation for the identification had not been laid.

In this Court, however, defendant's new counsel presents an entirely different theory proclaiming that, in view of the fact the accused was a Negro being tried by an all white jury, "* * * such an obvious identification was immaterial and irrelevant * * * and could have no other effect than to convey to the jury the witnesses' belief that the defendant because he was a Negro was the guilty party * * *."

There is no merit in the bill. Arleth was an eyewitness to the crime, and his testimony shows that he was qualified to make an in-court identification. See State v. Singleton, 253 La. 18, 215 So.2d 838, a case substantially similar to this one, and the authorities there cited.

Bill of Exceptions No. 26 was reserved to the court's refusal to admonish the jury to disregard the pronunciation of the word "Negroes" by the Assistant District Attorney, Mrs. Frances Gilfoil. It appears from the record that Mrs. Gilfoil pronounced the word Negroes with less emphasis on the letter "o" than commonly used so that the word as she pronounced it sounded somewhat like "nigras." The judge thought the objection to the pronunciation by Mrs. Gilfoil was frivolous. But counsel in argument here stresses that the pronunciation of the district attorney somehow prejudices defendant before an all white jury.

We agree with the trial judge. Indeed, it is difficult to discern that defendant suffered any prejudice as the result of the assistant district attorney's pronunciation of the word Negroes. On the contrary, it appears to us that, in view of the heinous crime committed by defendant,

which was proved beyond a reasonable doubt to the satisfaction of the jury, the members of that body displayed leniency and compassion by returning a qualified verdict of guilty in the case.

Albeit Bills of Exceptions Nos. 27, 28, 29, 30, 31, 32, 33, 34, 35 and 36 have been argued and submitted by both the State and defense counsel as inseparable, in that they refer to the admission in evidence on rebuttal by the State of a certain inculpatory or exculpatory statement given by defendant, we think that discussion of these bills would be more readily understood if they were partially segregated.

It appears from the record that defendant took the witness stand in his own behalf and testified that he had gone to the park on the night of the crime with the intention of burglarizing the Yarc Club and had obtained a tire tool from the trunk of his car to assist him in doing so; that, while in the park, he heard a noise and as he crossed the bridge he heard a moan; that he walked down into the culvert and found the prosecutrix lying there; and that, soon afterwards, the police officers arrived and arrested him. At this stage of defendant's testimony, the State informed the court that it desired to introduce an oral inculpatory statement made by the defendant for the purpose of rebutting his evidence.

Accordingly, the jury was then withdrawn from the courtroom and, thereafter, the State produced Officers Shirley Picard, Sidney Broussard and Anthony Navarre to lay the foundation for the admission in evidence of an oral statement of an inculpatory or exculpatory nature which tended to contradict the testimony given by defendant while on the witness stand. During the examination of these witnesses out of the presence of the jury, defense counsel reserved Bills of Exceptions Nos. 27, 28 and 29, which were taken when the judge overruled objections to questions propounded by the district attorney to Picard on the ground that they were leading questions. The first question asked was whether Picard or anyone else in his presence did anything to menace or intimidate the defendant or threaten him in any manner so as to cause him to give the statement sought to be intro-

duced in evidence. The court overruled the objection that the question was leading and similar objections to two other questions of the same nature. Whereupon, defense counsel reserved Bills 27, 28 and 29.

We find no substance in the bills. When the State attempts to lay the foundation for the admission of a confession, it is required to show that the statement given by the accused is free and voluntary in all respects. Hence, it must perforce propound to the State witnesses questions to establish this as a fact. While the questions propounded may be regarded as leading in a sense, their allowance is within the sound discretion of the judge, and we cannot think of any instance where bills of this sort furnish a valid basis for the reversal of a conviction.

Bill of Exceptions No. 30 was taken to the overruling by the judge of defense counsel's objection to the reception of defendant's oral statement in evidence on the ground that the offer of the statement came too late after the State had rested its case in chief.

We find no merit in the bill. Since the State had notified the defendant it had an inculpatory statement and intended to use it, it had the right to offer it at any stage of the trial upon laying the foundation for its admission.

Bills 31, 32 and 33 were taken to the overruling of objections to questions propounded to Officer Broussard on the ground that they were leading. In this respect, as we have indicated, the bills are on a parity with Bills 27, 28 and 29 hereinabove discussed. One of these bills shows that, when Officer Broussard was asked whether he or anyone else placed defendant in fear or under duress, the objection was made to his testimony on the ground that it would contain conclusions and, when the officer was asked did anyone else threaten defendant in any way to make him give a statement, the same objection was made.

These bills, we think, are obviously without merit.

The same ruling applies to Bills of Exceptions Nos. 34 and 35, which were taken to the overruling of objections to similar questions propounded to Officer Navarre on the ground that they were leading.

Bill No. 36 was taken when the judge ruled that the State had proven to his satisfaction that all the warnings required by Miranda v. Arizona, 384 U.S. 436, 86 S.Ct. 1602, 16 L.Ed.2d 694, were given the defendant, and that the oral inculpatory statement made by him was free and voluntary. The judge states in part in his per curiam:

> "The Court wishes also to state that it was completely satisfied with the testimony of the three officers, Picard, Broussard and Navarre, in connection with the circumstances surrounding the taking of the statement of the defendant. The Court was satisfied that these officers testified truthfully."

After reading the testimony, we find no error in the judge's rulings and, hence, this bill is not well founded.

When defendant was on the stand under cross-examination, he was asked, with respect to his statement to the police, whether he saw the officer type anything on the typewriter. His answer was, "Yes." At this point defense counsel objected, stating:

> "* * * I would like to make it clear that it is clear that I have before the court objected to what we are now getting into to the questioning under the condition and the statements that we're now getting into on constitutional grounds, and we're reserved our bill of exceptions on any of this as being legally admissible in this trial."

When the judge overruled the objection, counsel reserved Bill No. 37.

We find it difficult to comprehend the meaning of counsel's objection. However, the court evidently understood it, for it was stated in the per curiam that the bill was merely a reiteration of defendant's previous objection to the court's allowance of evidence on defendant's inculpatory statement. We perceive no error in the ruling.

After the judge found the confession admissible, the jury was returned to the courtroom and defendant resumed his testimony on the stand under cross-examination. At this time he was asked concerning the giving of the statement and, when he denied that he had voluntar-

ily made a statement, the State announced its intention to impeach his testimony. Thereafter, Officers Picard and Broussard were placed on the stand, and they testified that defendant did make the oral statement in question. Defense counsel objected to Officer Picard's testimony concerning the statement "* * * for the constitutional reasons I have heretofore urged." When the objection was overruled, Bill No. 38 was reserved. Later on, during the cross-examination of Officer Picard, defense counsel objected to the officer's testimony anent the oral statement of defendant on the ground that the entire statement had not been related by the witness, and, when the objection was overruled, Bill No. 39 was reserved.

In his per curiam to these bills, the judge remarks that they are simply a reiteration of counsel's objection to defendant's inculpatory statement and Officer Picard's testimony in connection therewith. After an examination of the testimony pertaining to these bills, we find no error in the ruling of the trial judge.

Bill of Exceptions No. 40 is on the same footing as Bills 38 and 39. It was taken while Officer Broussard was on the stand, and counsel objected to the officer's statement concerning the giving of the oral inculpatory statement. The bill is without merit.

For the reasons assigned, the conviction and sentence are affirmed.

SUPREME COURT OF THE STATE OF LOUISIANA

Clerk's Office, New Orleans, May 4, 1970

Dear Sir:

Rehearing was this day refused in the case entitled State v. Alexander et al Nos. 50,012, 50,013.

Cordially yours,

HAROLD A. MOISE, JR., Clerk.

SUPREME COURT OF THE UNITED STATES

No. 5944, October Term, 1970

CLAUDE ALEXANDER, PETITIONER

v.

LOUISIANA

On petition for Writ of Certiorari to the Supreme Court of the State of Louisiana.

On consideration of the motion for leave to proceed herein in forma pauperis and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed in forma pauperis be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted.

March 1, 1971

☆ U. S. GOVERNMENT PRINTING OFFICE: 1971 423-264 [illegible]